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नई दिल्ली, जून 10—जून 16, 2007, शनिवार/शुक्र 20—शुक्र 26, 1929

No. 24]

NEW DELHI, JUNE 10—JUNE 16, 2007, SATURDAY/JHANSI 20—JHANSI 26, 1929

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पुस्तक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (II)

PART II—Section 3—Sub-section (II)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

केन्द्रीय उत्पाद एवं सीमा शुल्क बोर्ड

केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, भुवनेश्वर जोन

भुवनेश्वर, 16 मार्च, 2007

सं. 01/2007-कस (एन.टी.), भुवनेश्वर

का.आ. 1689.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली द्वारा सीमा शुल्क अधिनियम, 1962 की धारा 152 के क्लॉज (ए) के अंतर्गत जारी अधिसूचना सं. 33/94-कस (एन.टी.) दिनांक 1-7-1994 सहित पठित युथा संशोधित अधिसूचना सं. 14/2002-कस (एन.टी.) दिनांक 7-3-2002 के तहत अधोहस्ताक्षरित को प्रदत्त शक्तियों का प्रयोग करते हुए मैं, पी.एन. सारंगी, मुख्य आयुक्त, केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, भुवनेश्वर जोन, भुवनेश्वर, एतद्वारा ओडिसा राज्य में, जगतसिंहपुर जिला के कुजंग तहसील के अभयचंदपुर और डिकिया गांव को सीमा शुल्क अधिनियम, 1962 की धारा-9 के अंतर्गत भांडागारण स्टेशन घोषित करता हूं।

[फा. सं. VIII(40)1/कस-बी-1/2006/6159-6327-ए]

पी. एन. सारंगी, मुख्य आयुक्त

MINISTRY OF FINANCE

(Department of Revenue)

CENTRAL BOARD OF EXCISE & CUSTOMS
OFFICE OF THE CHIEF COMMISSIONERCENTRAL EXCISE, CUSTOMS & SERVICE TAX,
BHUBANESWAR ZONE

Bhubaneswar, the 16th March, 2007

No. 01/2007-CUS (N.T.) BHUBANESWAR

S.O. 1689.—In exercise of the powers delegated to the undersigned vide Notification No. 33/94-Cus (NT) dated 1-7-1994 by the Government of India, Ministry of Finance, Department of Revenue, New Delhi, under Clause (a) of Section 152 of Customs Act, 1962 read with Notification No. 14/2002-Cus (N.T.) dated 7-3-2002 as amended, I, P.N. Sarangi, Chief Commissioner, Central Excise, Customs & Service Tax, Bhubaneswar-Zone, Bhubaneswar hereby declare Abhayachandapur & Diklia Villages of Kujang Tehsil, Distt. Jagatsinghpur in the State of Orissa, to be a Warehousing Station under Section-9 of Customs Act, 1962.

[C.No. VIII(40)1/Cus-B-1/2006/6159-6327-A]

P. N. SARANGI, Chief Commissioner

केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर
आयुक्तालय, भुवनेश्वर-1 सी.आर. भवन, राजस्व विहार,
भुवनेश्वर-751007, ओडिसा
भुवनेश्वर, 23 मार्च, 2007

सीमा शुल्क अधिनियम, 1962 की धारा 8 के अंतर्गत जारी
किया गया अधिसूचना सं. 2-2007-कस (एन.टी.)
भुवनेश्वर, दिनांक 23-3-2007

पारादीप विनिर्दिष्ट सीमा शुल्क क्षेत्र में आयातित क्रूड
पेट्रोलियम उत्पादों के अनलोडिंग के लिए सिंगल पाइंट
मूरिंग, टैंक फार्म तथा एसोसियेटेड 48" ओ.डी.
पाइपलाइन्स

का.आ. 1690.—सीमा शुल्क अधिनियम, 1962 की धारा
8(ए) के अंतर्गत प्रदत्त शक्तियों का उपयोग करते हुए मैं, टांगमांग
हॉकिप, आयुक्त, केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर,
भुवनेश्वर-1, ओडिसा एतद्वारा पारादीप को आयातित क्रूड पेट्रोलियम
उत्पादों के अनलोडिंग का क्षेत्र मानते हुए, सिंगल पाइंट मूरिंग, टैंक
फार्म तथा एसोसियेटेड 48" ओ.डी. पाइपलाइन्स को अनुमोदित करता
हूँ, बशर्ते भारत सरकार अथवा आयुक्त, केन्द्रीय उत्पाद शुल्क, सीमा
शुल्क एवं सेवा कर, भुवनेश्वर-1, ओडिसा द्वारा, इस मामले में,
समय-समय पर जारी किए गए सीमा शुल्क अधिनियम, 1962 के
संगत प्रावधानों तथा अन्य अनुदेशों का सख्ती से पालन किया जाए।

इसके अतिरिक्त, सीमा शुल्क अधिनियम, 1962 की धारा
8(बी) के तहत, मैं एतद्वारा पारादीप में उपरोक्त एस.पी.एम. टैंक
फार्म तथा एसोसियेटेड 48" ओ.डी. पाइपलाइन्स के सीमा शुल्क क्षेत्र
की परिसीमा को निम्नानुसार विनिर्दिष्ट करता हूँ।

क्र.सं.	स्थान का नाम	अवस्थिति
1.	सिंगल पाइंट मूरिंग	86° 41' 31" लॉगिट्यूड तथा 20° 04' 42" लैटिट्यूड पर अवस्थित।
2.	टैंक फार्म	ओडिसा राज्य के जगतसिंगपुर जिला के कुजंग तहसील का डिकिया तथा अभयचन्द्रपुर गाँव।
3.	एसोसियेटेड पाइपलाइन्स	उपरोक्त एस.पी.एम. से टैंक फार्म तक जुड़ा हुआ।

[सी. सं. VIII(40)1/कस/भुव.-1/2006]

टी. हॉकिप, आयुक्त

COMMISSIONERATE OF CENTRAL EXCISE,
CUSTOMS & SERVICE TAX, BHUBANESWAR-I
Bhubaneswar, the 23rd March, 2007

Notification, No. 2/2007-Cus (N.T.) Bhubaneswar Dated
23-3-2007 Issued under Section 8 of The Customs Act,
1962

Single Point Mooring, Tank Farm and Associated 48"
OD pipelines at Paradeep specified
customs area for unloading of imported crude
petroleum products.

S.O. 1690.—In exercise of the powers conferred
upon me under Section 8(a) of the Customs Act, 1962, I,

Tongmang Haokip, Commissioner of Central Excise,
Customs and Service Tax, Bhubaneswar-I, Orissa hereby
approve the Single Point Mooring, Tank Farm and
Associated 48" OD Pipelines at Paradeep as place for
unloading of imported Crude Petroleum products, subject
to the strict observance of relevant provisions of the
Customs Act, 1962 and other instruction issued, in this
behalf, by the Government of India or Commissioner of
Central Excise, Customs and Service Tax, Bhubaneswar-I,
Orissa from time to time.

Further under Section 8(b) of the Customs Act, 1962,
I hereby specify the limits of the Customs Area of the
above SPM, Tank Farm and Associate-48" OD pipelines at
Paradeep as under :—

Sl. No.	Name of the Site	Location
1.	Single Point Mooring	Situated at longitude 86° 41' 31" and latitude 20° 04' 42"
2.	15 Tank Farm	Village Dinkia and Abhayachandapur of Kujang Tehsil, Dist :-Jagatsingpur in the state of Orissa.
3.	Associated Pipelines	Connecting from SPM to Tank Farm at above.

[C.No. VIII(40)1/Cus/B-1/2006]

T. HAOKIP, Commissioner

भुवनेश्वर, 23 मार्च, 2007

सीमा शुल्क अधिनियम, 1962 की धारा 45 के तहत जारी
किया गया अधिसूचना सं. 3/2007-कस (एन.टी.) भुवनेश्वर,
दिनांक 23-3-2007

पारादीप में आयातित क्रूड पेट्रोलियम उत्पादों के अनलोडिंग
के लिए सिंगल प्वाइंट मूरिंग, टैंक फार्म तथा एसोसियेटेड
48" ओ डी पाइपलाइन्स के लिए कस्टोडियन कि नियुक्ति

का.आ. 1691.—सीमा शुल्क अधिनियम, 1962 (1962
का 52) के तहत प्रदत्त शक्तियों का प्रयोग करते हुए, मैं, टांगमांग
हॉकिप, आयुक्त, केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर,
भुवनेश्वर-1, ओडिसा, एतद्वारा मेसर्स इण्डियन ऑयल कारपोरेशन
लिमिटेड पाइपलाइन्स डिविजन, पारादीप-हलदिया क्रूड ऑयल
पाइपलाइन्स प्रोजेक्ट, पारादीप को सिंगल प्वाइंट मूरिंग, टैंक फार्म
तथा एसोसियेटेड 48" ओ डी पाइपलाइन्स को, अधिसूचना 2/2007-कस.
(एन.टी.) भुवनेश्वर, दिनांक 23-3-2007 के अन्तर्गत अधिसूचित
धारा 8(ए) के तहत, आयातित क्रूड पेट्रोलियम उत्पादों के अनलोडिंग
के लिए तब तक कस्टोडियन नियुक्त करता हूँ जब तक कि ये घरेलू
खपत अथवा निर्यात अथवा भांडागारण अथवा नौकान्तरण में खत्म न
हो जाए, जो कथित अधिनियम के प्रावधानों के अनुसार, निम्नलिखित
शर्तों पर आधारित है :—

1. आयात तथा निर्यात के लिए रखे गए माल के कस्टोडियन
से, सीमा शुल्क अधिनियम, 1962 की धारा 45(2) के प्रावधानों,

विनियम तथा साथ ही साथ, इस संबंध में समय-समय पर जारी किए गए नियम तथा अनुदेशों के अनुपालन की अपेक्षा की जाती है।

2. माल की उचित प्राप्ति, रखा-रखाव, स्टोर करने का उत्तरदायित्व कस्टोडियन का होगा तथा आयातीत माल के आगमन तथा निकासी से पूर्व गुप्त होने तथा साथ ही साथ निर्यात/नौकान्तरण के लिए रखे माल की हानि के लिए वे जिम्मेदार होंगे। उन्हें ऐसे माल का उचित रिकार्ड रखना होगा जिसमें वे माल शामिल होंगे जो कस्टम विभाग की अनुमति से निकाले गए हो अथवा सीमा शुल्क अधिनियम, 1962 की धारा 48 के तहत निपटान किए गए हों अथवा किसी अन्य तरीके से निकाले गए हों।

3. यदि कोई आयातीत/निर्यातीत/नौकान्तरण माल, कस्टोडियन की कस्टडी में, कस्टम क्षेत्र के अन्दर अनलॉडिंग के दौरान चोरी या गुप्त हो जाता है, तो सीमा शुल्क अधिनियम, 1962 की धारा 45(3) के प्रावधानों के अनुसार उन्हें ऐसे चोरी हुए माल पर स्वयं शुल्क देना पड़ेगा।

4. आयातीत/निर्यात/नौकान्तरित माल जो अनलॉडिंग होने के 30 दिनों के अन्दर घरेलू खपत, अथवा भाण्डागारण या निर्यात/नौकान्तरित के लिए निकासी नहीं किए गए हों अथवा उस अतिरिक्त अवधि में, जो उचित अधिकारी द्वारा दी गई हो; अथवा वे आयातीत माल जो सीमा शुल्क अधिनियम, 1962 की धारा 23(2) के अनुसार आयात करने का हक खो चुके हों, ऐसे माल को सीमा शुल्क अधिनियम, 1962 की धारा 48 के प्रावधानों के अन्तर्गत, कस्टम अधिकारी की उचित अनुमति बिना, कस्टोडियन द्वारा बिक्री नहीं किया जा सकता है।

5. कार्गो के लॉडिंग/अनलॉडिंग/स्टोरिंग के लिए कस्टोडियन द्वारा सुरक्षित, मजबूत तथा लम्बी-चौड़ी जगह उपलब्ध करायी जाए।

6. अधिसूचित क्षेत्र में कार्गो के संचालन हेतु, कस्टोडियन, द्वारा प्रचालन स्थिति में, आधुनिक संचालित उपकरण, पर्याप्त मात्रा में उपलब्ध कराना होगा।

7. आयुक्त, केंद्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, भुवनेश्वर-1 की सहमति बिना एस.पी.एम., टैंको, इत्यादि की योजना में कोई भी परिवर्तन नहीं किया जाए।

8. एस. पी. एम., टैंकों तथा कथित पाइपलाइन्स में रखे समस्त माल का इंसोरेंस कस्टोडियन द्वारा किया जाएगा।

9. सीमा शुल्क अधिनियम के तहत आने वाले समस्त नियमों, विनियमों का पालन कस्टोडियन द्वारा किया जाएगा।

10. अपने कार्य का उचित निर्वहन के लिए, कस्टोडियन द्वारा उचित प्रपत्र में बॉर्ड का निष्पादन करना होगा जो या तो उसके किसी एक डाइरेक्टर द्वारा किया जाए अथवा बॉर्ड के मैनेजिंग डाइरेक्टर द्वारा अथवा मैनेजिंग डाइरेक्टर द्वारा, उनकी जगह इस बॉर्ड को हस्ताक्षर करने के लिये किसी अधिकारी को मुख्तारनामा (पावर ऑफ एटर्नी) के जरिए प्राधिकृत किया गया हो, जो उस माल की कीमत के बराबर होगा, जिसकी इस परिसर में तीस दिनों तक स्टोर करने की संभावना होगी। जब भी इस कार्यक्षमता में बढ़ोतरी होगी, तब कस्टोडियन स्वयं ही मूल्यवृद्धि के बराबर का बॉर्ड प्रस्तुत करेगा। जब भी आयुक्त,

केंद्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, भुवनेश्वर-1 द्वारा इस मामले में स्पष्टीकरण मांगा जाएगा, तब कस्टोडियन को अपेक्षित बैंक गॉरन्टी/कैस डिपोजिट भी प्रस्तुत करना होगा।

11. कथित एस. पी. एम., टैंक फार्म एवं एसोसिएटेड पाइपलाइन्स (सीमा शुल्क क्षेत्र) की सुरक्षा का उत्तरदायित्व कस्टोडियन का होगा बशर्ते उन्हें आयुक्त, केंद्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, भुवनेश्वर-1 से पूर्व अनुमोदन प्राप्त हो।

12. कस्टोडियन द्वारा निकासी के स्थान पर सीमा शुल्क विभाग के लिए निशुल्क सुसज्जित कार्यालय के लिये स्थान उपलब्ध कराना होगा।

13. कस्टोडियन द्वारा कथित एस.पी.एम., टैंक फार्म तथा एसोसिएटेड पाइपलाइन्स के लिए तैनात सीमा शुल्क स्टाफ की स्थापना का समस्त खर्चा वहन करना होगा।

14. आयुक्त, केंद्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, भुवनेश्वर-1 द्वारा जहाँ भी आवश्यकता हो वहाँ पर तैनात सीमा शुल्क स्टाफ के आवास की व्यवस्था भी कस्टोडियन द्वारा किया जाएगा।

15. कस्टोडियन द्वारा सीमा शुल्क स्टाफ के लिए निकटतम रेलवे स्टेशन अथवा उचित जगह से यातायात की निःशुल्क व्यवस्था की जाए।

16. कस्टोडियन द्वारा उस क्षेत्र में कार्य करने वाले अधिकारियों के लिए शौचालय, पानी की व्यवस्था तथा अन्य सहायक सुविधाएँ, जिसमें कैटीन की सुविधा भी शामिल हो, का उचित प्रबंध किया जाए।

17. सीमा शुल्क विभाग द्वारा जो माल शुल्क अधिनियम अथवा समयानुसार कोई अन्य अधिनियम के तहत रोक लिया गया है, उस माल कस्टोडियन को भाड़ा/डेमरेज विलंब शुल्क नहीं लेगा/हालांकि सीमा शुल्क विभाग द्वारा कस्टोडियन को भाड़ा तक दिया जाएगा जब सरकार द्वारा यह माल जब्त किया जाएगा। ऐसे माल के भाड़ा का दर आयुक्त द्वारा सीपीडब्ल्यूडी अथवा आंचलिक राजस्व अथवा भाड़ा नियंत्रण प्राधिकरण से परामर्श करके निर्धारित किया जाएगा।

18. यदि कस्टोडियन किसी कार्य के लिए सीमा शुल्क क्षेत्र अथवा सीमा शुल्क क्षेत्र से संबन्धित क्षेत्र के अन्दर सबलेट करना चाहता है, तो उसे आयुक्त, केंद्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, भुवनेश्वर-1 से पूर्व अनुमति प्राप्त करनी होगी और एजेन्सी की भूल-चूक के लिए वहाँ जिम्मेदार होगा।

19. इस अधिसूचना के जारी होने की तारीख से प्रारंभिक तौर पर 5 वर्ष तक यह निबुक्ति वैध होगा तथा आयुक्त, केंद्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, भुवनेश्वर-1 की संतुष्टि पर लागू होगा। आयुक्त केंद्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवा कर, भुवनेश्वर-1 को जो कस्टोडियन को अपने मामले को स्पष्ट करने हेतु विशेष कारण बताने के बाद किसी भी समय इस निबुक्ति को खारिज करने का अधिकार होगा।

20. कस्टोडियन द्वारा सीमा शुल्क चेक-पोस्ट के लिए उचित स्थान पर उचित कार्यालय परिसर उपलब्ध कराना होगा जिसमें कार्यालय फर्नीचर सहित संचार के पर्याप्त साधन उपलब्ध हो।

21. कस्टोडियन द्वारा कस्टम का तब तक मर्चेंट ओवरटाइम देना होगा जब तक कि कस्टम विभाग द्वारा कॉस्ट रिकवरी आधार पर अधिकारियों का पद स्वीकृत किया जाएगा।

22. कस्टोडियन द्वारा सीमा शुल्क क्षेत्र के पूरे इलाके में कॉटेदार तारों वाली फेन्सिंग सहित बाउंडरी वाल बनाना होगा।

[सी. सं. VIII(40) 1/कस/भुव-1/2006]

टी. हॉकिप, आयुक्त

Bhubaneswar, the 23rd March, 2007

Notification No. 3/2007-Cust. (N.T.) Bhubaneswar, Dated 23-3-2007 issued under Section 45 of the Customs Act, 1962 Appointment of Custodian of the Single Point Mooring, Tank Farm and Associated 48" OD Pipelines at Paradeep for unloading of imported crude petroleum products.

S.O. 1691.—In exercise of the powers conferred upon me under Section 45(1) of the Customs Act 1962 (52 of 1962), I, Tongmang Hoakip, Commissioner of Central Excise, customs and Service Tax, Bhubaneswar-I, Orissa hereby appoint M/s., Indian Oil Corporation Limited pipelines division, Paradeep-Haladia Crude Oil Pipeline Project, Paradeep to be the custodian of the Single Point Mooring, Tank Farm and Associated 48" OD Pipelines at Paradeep, as notified under section 8(a) vide Notification 2/2007-CUS(N.T.) BHUBANESWAR, dated 23-03-2007 for unloading of imported Crude petroleum products until these are cleared for home consumption or exported or are warehoused, or transhipped in accordance with the provisions of the said Act, subject to the following conditions :—

1. Custodian of the goods meant for import and export would be required to comply with the provisions of section 45(2) of the Customs Act, 1962 as well as Rules & Regulations and Instructions issued from time to time in this regard.
2. The custodian shall be responsible for proper receipt, handling, storage, and shall be accountable for the loss of imported goods after landing and before clearance as well as the goods meant for export/transshipment. They shall also maintain proper record of all such goods including the record of goods which are cleared with the permission of the Customs Department or disposed of under Section 48 of the Customs Act, 1962 or otherwise.
3. If any imported/export/transshipment goods are pilfered or lost after unloading in the Customs area while in custody of the custodian, then in terms of provisions of section 45(3) of the Customs Act, 1962 they shall be liable to pay such duty on such pilfered goods.
4. The imported/export/transshipment goods, which are not cleared for home consumption or warehousing or exported/transhipped within 30

days of unloading thereof or within such further time period as the proper officer may allow; or the imported goods to which importer relinquishes his title as provided in Section 23(2) of the Customs Act, 1962, such goods shall not be sold under the provisions of Section 48 of the Customs Act, 1962, by the custodian without obtaining permission from the proper officer of Customs.

5. The custodian shall provide safe, secure and spacious place for loading/unloading/storing of the cargo.
6. The custodian shall provide sufficient modern handling equipment in operation condition for handling the cargo in the notified area.
7. No alteration of the plan in the SPM, tanks etc. shall be made without the concurrence of the Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar-I.
8. Insurance of all goods held on the SPM, Tanks and the said pipelines shall be made by the custodian.
9. The custodian shall abide by all the rules, regulations under the Customs Act.
10. For proper discharge of duties, the Custodian shall execute bond in proper form either by one to the Directors or Managing Director of the Board or any particular Officer authorized by the Managing Director to sign the Bond on his behalf by way of a power of Attorney equal to the value of goods likely to be stored in the premises for a period of thirty days. As and when the volume of work handled increases, the Custodian will himself furnish bond equal to the increase in value. The Custodian will also furnish the required Bank Guarantee/Cash Deposit whenever demanded by the Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar-I on getting clarification in the matter.
11. Security of the said SPM, Tank Farm and associated pipelines (Customs area) shall be the responsibility of the custodian subject to the prior approved from the Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar-I. The cost of the security has to be borne by the custodian.
12. The custodian shall provide free furnished office space for the Customs Department at place of clearance.
13. The custodian shall bear the establishment charges of the Customs staff posted for the said SPM, Tank Farm and associated pipelines. The Assistant/Deputy Commissioner, Customs, Paradeep shall decide the staff which is required to be posted considering the work load at jetty.

14. Residential accommodation for the Customs staff posted in the area shall also be provided for by the custodian, wherever requisitioned by the Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar-I.
15. Free suitable transport from the nearest railway head or suitable point shall be provided for the Customs staff by the custodian.
16. The custodian shall make adequate arrangements for sanitary facilities, water supply and other allied facilities, including canteen facilities, for the officers working in the area.
17. Custodian shall not charge any rent/demurrage on the goods retained by the Customs Department under the Customs Act or any other Act for the time being in force. However, the Customs department shall pay the rent to the custodian after the ownership of the goods vests in the Government after confiscations. The rate of rent for such goods shall be fixed by the Commissioner in consultation with CPWD or local Revenue or Rent Control Authorities.
18. In case of the Custodian wants to sublet any of the functions inside the Customs area or connected with the Customs area, the same should be done with prior approval of the Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar-I, and the Custodian shall remain responsible for the omissions and commissions of the said agency.
19. Durations of appointment shall initially remain valid up to 5 years from the date of issue of this Notification and subject to the satisfaction of the Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar-I. Commissioner of Central Excise, Customs & Service Tax, Bhubaneswar-I shall have the right to terminate the appointment at any time after assigning specific reasons for the Custodian to explain his case.
20. The Custodian shall provide a suitable office premises at proper place for Customs Check post with adequate equipment of communications and office furniture.
21. The Custodian shall be liable to pay Merchant Overtime to Customs till the post of the officers are sanctioned on cost recovery basis by the Customs Department.
22. The Custodian shall construct compound wall barbed wire fencing covering the whole part of the Customs area.

[C. No. VIII (40) I/Cus/B-1/2006]

T. HAKIP, Commissioner

कार्यालय, मुख्य आयकर आयुक्त

जयपुर, 29 मई, 2007

सं. 01/2007-08

क्र.आ. 1692.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43वां) की धारा 10 के खण्ड (23सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2008-09 एवं आगे के लिए कथित धारा के उद्देश्य से "बिड़ला इन्स्टीट्यूट ऑफ टेक्नोलॉजी एण्ड साइंस, पिलानी" को स्वीकृति देते हैं।

बतते कि समिति आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक : मुआआ/अभ्रआ/(समन्वय)/जय/10(23सी)
(vi)/07-08]

एस. सी. कपिल, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF
INCOME TAX

Jaipur, the 29th May, 2007

No. 01/2007-08

S.O. 1692.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "Birla Institute of Technology & Science, Pilani" for the purpose of said Section for the A. Y. 2008-09 and onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CEIT/TPR/CIT(OSD)/(Coord)/2007-08]

S. C. KAPIL, Chief Commissioner of Income-tax

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 28 मार्च, 2007

क्र.आ. 1693.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5घ के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ 1-4-2003 के संगठन इंडु फाउंडेशन फॉर हेल्थ केयर, मुम्बई को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में लगी अन्य संस्था की श्रेणी में अनुमोदित करती है, अर्थात् :—

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा ;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नमांकित छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा;

(iii) अनुमोदित संगठन बही-खाता रखेगा तथा उक्त अधिनियम की धारा 288 की उप धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उपधारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा।

(iv) संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5ग और 5घ के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 99/2007/फा. सं. 203/35/2005-आ.क.नि.-II]

रेनु चौहरी, निदेशक

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 28th March, 2007

S. O. 1693.—It is hereby notified for general information that the organization Zhandu Foundation for Health Care, Mumbai has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5D of the Income-tax Rules, 1962 (said rules), with effect from 1-4-2003 in the category of 'other Institution', partly engaged in research activities subject to the following condition, namely :

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;

(iii) The approved organization shall maintain books of accounts and get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;

(iv) The organization shall maintain a separate Statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above;

2. The Central Government shall withdraw the approval if the approved organization :

- (a) fails to maintain books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or is research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5D of the said Rules.

[Notification No. 99/2007/F.No. 203/35/2005/ITA-II]

RENU JAUHRI, Director

नई दिल्ली, 28 मई, 2007

(आयकर)

का.आ. 1694.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23ग) के उपखंड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार (एतद्वारा यह अधिसूचित करती है कि "जलियांवाला बाग नेशनल मेमोरियल ट्रस्ट, अमृतसर" (इसके बाद "संस्था" कहा गया है) की ओर से किसी व्यक्ति द्वारा प्राप्त की गई कोई आय निम्नलिखित शर्तों के अधीन ऐसे व्यक्ति की कुल आय में शामिल नहीं की जाएगी;

- (क) संस्था अपनी आय का इस्तेमाल अथवा अपनी आय का इस्तेमाल करने के लिए उसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगी जिनके लिए इसकी स्थापना की गई है तथा उस मामले में जहां इसकी पंद्रह प्रतिशत से अधिक आय 1 अप्रैल, 2002 को या उसके पश्चात् एकत्र की गई है, इसकी आय के संचयन की राशि के पंद्रह प्रतिशत से अधिक होने की अवधि किसी भी स्थिति में पांच वर्ष से अधिक नहीं होनी चाहिए;

- (ख) संस्था उपर्युक्त कर निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक इन अवधि तरीकों से भिन्न तरीकों से अपनी निधि (जेवर-जवाहरात, फर्नीचर आदि के रूप में प्राप्त तथा अनुरक्षित स्वीकृत अंशदान से भिन्न) का निवेश नहीं करेगी अथवा उसे जमा नहीं करेगी ;
- (ग) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलक्षण हो जब तक कि ऐसा कारोबार संस्था के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों ;
- (घ) संस्था आयकर अधिनियम, 1961 के प्रावधानों के अनुसार अपनी आय विवरणी नियमित रूप से आयकर प्राधिकारी के समक्ष फाइल करेगी ;
- (ङ) संस्था के विघटन की स्थिति में अतिरिक्त राशियों और परिसम्पत्तियों समान उद्देश्यों वाले धर्मार्थ संमेलन को दे दी जाएगी ;
- (च) जैसा कि धारा 288 की उपधारा (2) के नीचे स्पष्टीकरण में परिभाषित किया गया है, संस्थान किसी लेखाकार द्वारा अपने खातों की लेखा परीक्षा कराएगी तथा आय की विवरणी के साथ प्रस्तुत करेगी । ऐसी लेखा परीक्षा की रिपोर्ट, विहित प्रारूप में लेखाकार के द्वारा विधिवत् हस्ताक्षरित एवं सत्यापित एवं विहित किए गए यथा अपेक्षित व्यौरों को प्रेषित करेगी ।

2. यह अधिसूचना केवल संस्था की ओर से आय के प्राप्तकर्ता पर ही लागू होगी न कि इस तरह के प्राप्तकर्ता द्वारा किसी प्राप्ति अथवा आय पर । संस्था की कराधेयता अथवा अन्यथा आय पर, आयकर अधिनियम, 1961 के उपबन्धों के अनुसार पृथक् रूप से विचार किया जाएगा ।

3. यह अधिसूचना कर निर्धारण वर्ष 2007-08 एवं आगे के लिए लागू होगी।

4. उपर्युक्त अधिसूचना को केन्द्र सरकार के द्वारा निरस्त किया जा सकता है यदि यह बाद में पाया गया कि संस्था के क्रियाकलाप वैध नहीं हैं अथवा यदि उनका अनुपालन उन सभी अवधि-वर्षों से किन्हीं शर्तों के अनुसार नहीं किया जा रहा है जिसके आधार पर इसे अधिसूचित किया गया था ।

[अधिसूचना सं. 181/2007/फा. सं. 197/33/2007-आयकर नि.-1]

दीपक गर्ग, अवर सचिव

New Delhi, the 28th May, 2007

(INCOME-TAX)

S.O. 1694.—In exercise of powers conferred by the sub-clause (iv) of the Clause (23C) of Section 10 of the Income tax Act, 1961 (43 of 1961), the Central Government hereby notifies that any income received by any person on behalf of "Jallianwala Bagh National Memorial Trust, Amritsar"

(hereinafter the "Institution") shall not be included in the total income of such person subject to the following conditions, namely:—

- (a) the Institution will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established and in a case where more than fifteen per cent of its income is accumulated on or after the 1st day of April, 2002, the period of the accumulation of the amount exceeding fifteen per cent of its income shall in no case exceed five years;
- (b) the Institution will not invest or deposit its fund (other than voluntary contributions received and maintained in the form of jewellery, furniture, etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in anyone or more of the forms or modes specified in sub-section (5) of the Section 11;
- (c) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the Institution and separate books of account are maintained in respect of such business;
- (d) the Institution will regularly file its return of income before the Income tax authority in accordance with the provisions of the Income tax Act, 1961;
- (e) that in the event of dissolution of the Institution, its surplus and the assets will be given to an organization with similar objectives.
- (f) The Institute will get its accounts audited by an accountant as defined in Explanation below sub-section (2) of Section 288 and furnish along with the return of Income. The report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.

2. This notification is applicable only to the recipients of income on behalf of the Institution and not to any other receipt or income of such recipients. Taxability or, otherwise of the income of the Institution would be separately considered as per the provisions of the Income tax Act, 1961.

3. This notification is applicable for Assessment Year 2007-08 and onwards.

4. The above notification is liable to be rescinded by the Central Government, if it is subsequently found that the activities of the Institution are not genuine or if they are not carried out in accordance with all or any of the conditions subject to which it was notified.

[Notification No. 181/2007/F. No. 197/33/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 30 मई, 2007

(आयकर)

का.आ. 1695.—जबकि आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193 (अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिये संख्या का.आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302 005 में है, ग्रोथ सेंटर (एक्स.) धौलपुर, जिला-धौलपुर, राजस्थान-328 027 में एक औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 6-12-2006 के पत्र सं. 15/121/2005-आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब इसलिए उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया है।

- | | |
|-----------------------------------|-------------------------------------------------------------------------|
| 1. (i) औद्योगिक उपक्रम का नाम | : राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., |
| (ii) प्रस्तावित स्थान | : ग्रोथ सेंटर (एक्स.) धौलपुर, जिला-धौलपुर, राजस्थान |
| (iii) औद्योगिक पार्क का क्षेत्रफल | : 871561.92 वर्ग मीटर |
| (iv) प्रस्तावित कार्यकलाप: | |

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

क्रम सं.	एन आई सी संहिता				विवरण
	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	—	—	—	विनिर्माण
(v)	औद्योगिक उपयोग के लिए प्रस्तावित आबादनीय क्षेत्र का प्रतिशत				: 91.65%
(vi)	वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत				: 8.35%
(vii)	औद्योगिक यूनिटों की न्यूनतम संख्या				: 12 यूनिटें
(viii)	प्रस्तावित कुल निवेश (राशि रुपए में)				: 1347.96 लाख
(ix)	औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में)				: शून्य
(x)	अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में)				: 906.08 लाख
(xi)	औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि				: 31-3-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेंज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354 (अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का 50% से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिखा जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतर्गती उपक्रम) को हस्तांतरित करेगा तो अन्तरणकर्ता और अंतर्गती उपर्युक्त हस्तांतरण के लिए अन्तरणकर्ता और अंतर्गती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल इन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा परिवर्धन में कतल लगाया अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देगा।

[अधिसूचना सं. 182/2007/फा. सं. 178/68/2007-आ.क. नि.-1]

दीपक गर्ग, अवर सचिव

New Delhi, the 30th May, 2007

(INCOME-TAX)

S.O. 1695.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302 005 is developing a Growth Centre at Growth Centre (Ext.) Dholpur, District-Dholpur, Rajasthan-328 027;

And whereas the Central Government has approved the said Growth Centre vide Ministry of Commerce and Industry letter No. 15/121/2005-ID dated 6-12-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development and Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of a Growth Centre by M/s. Rajasthan State Industrial Development and Investment Corporation Limited, Jaipur.

1. (i) Name of the Industrial Undertaking : Rajasthan State Industrial Development & Investment Corporation Limited
- (ii) Proposed location : Growth Centre (Ext.) Dholpur, District-Dholpur, Rajasthan-328027
- (iii) Area of Growth Centre : 871561.92 Square Meters
- (iv) Proposed activities :

Nature of Industrial activity with NIC code					
		NIC Code			Description
S. No.	Section	Division	Group	Class	
A	2&3	—	—	—	Manufacturing
(v)	Percentage of allocable area earmarked for Industrial use				: 91.65%
(vi)	Percentage of allocable area earmarked for commercial use				: 8.35%
(vii)	Minimum number of industrial units				: 12 Units
(viii)	Total investments proposed (Amount in Rupees)				: 1347.96 lakhs
(ix)	Investment on built up space for industrial use (Amount in Rupees)				: Nil
(x)	Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees)				: 906.08 lakhs
(xi)	Proposed date of commencement of the Groth Centre				: 31-03-2006

2. The minimum investment on infrastructure development in a Growth Centre shall not be less than 50% of the total project cost. In the case of a Growth Centre which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty per cent of the allocable industrial area of a Growth Centre. For this purpose a unit means any separate and distinct entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Growth Centre.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Growth Centre during the period in which the benefits under clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Growth Centre is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80-IA of the Income Tax Act, 1961

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

- (i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- (ii) it is for the location of the Growth Centre for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the Growth Centre (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the Growth Centre.

[Notification No. 182/2007/F. No. 178/68/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 30 मई, 2007

(आवक)

क्र.आ. 1696.—जबकि आयकर अधिनियम 1961 (1961 का 43) (यहां आगे उक्त अधिनियम, कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या क्र. आ. 193 (अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या क्र. आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, इंडस्ट्रियल (स्पिस्ट) ग्रोथ सेंटर परबतसर, नागौर, जिला-नागौर, राजस्थान-341001 में एक ग्रोथ सेंटर का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 06-12-2006 के पत्र सं. 15/139/2005-आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब इसलिए उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर द्वारा विकसित तथा अनुसूचित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा ग्रोथ सेंटर गठित किए जाने हेतु अनुमोदन प्रदान किया है।

1. (i) औद्योगिक उपक्रम का नाम : राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि.
- (ii) प्रस्तावित स्थान : इंडस्ट्रियल (स्पिलिट) ग्रोथ सेंटर पर्वतसर, नागौर, जिला-नागौर, राजस्थान-341001
- (iii) ग्रोथ सेंटर का क्षेत्रफल : 87.10 एकड़
- (iv) प्रस्तावित कार्यकलाप :

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

एन आई सी संहिता		विवरण		
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी
क	2 एवं 3	—	—	—
				विनिर्माण
(v)	औद्योगिक उपयोग के लिए प्रस्तावित आवांटीय क्षेत्र का प्रतिशत			: 93.68%
(vi)	वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत			: 4.32%
(vii)	औद्योगिक यूनिटों की न्यूनतम संख्या			: 24 यूनिटें
(viii)	प्रस्तावित कुल निवेश (राशि रूप में)			: 271.67 लाख
(ix)	औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रूप में)			: शून्य
(x)	अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रूप में)			: 246.31 लाख
(xi)	औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि			: 31-03-2006

2. किसी ग्रोथ सेंटर में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसा ग्रोथ सेंटर जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेंज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की का. आ. 354 (अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी ग्रोथ सेंटर के लिए नियत औद्योगिक क्षेत्र का 50% से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल हैं, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के ग्रोथ सेंटर में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत लाभ प्राप्त हो सकते हैं।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर उस अवधि के दौरान ग्रोथ सेंटर का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त ग्रोथ सेंटर के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा काल तक होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अवैधित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।

(ii) यह उक्त ग्रोथ सेंटर की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) ग्रोथ सेंटर का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतर्गती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतर्गती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतर्गती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उच्चमशीलता सहायता यूनिट संयुक्त रूप से बुद्धि करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, ग्रोथ सेंटर के अनुमोदन को अवैध बना देना।

[अधिसूचना सं. 183/2007/फा. सं. 178/68/2007-आ.क. नि.-1]

दीपक गर्ग, अवर सचिव

New Delhi, the 30th May, 2007

(INCOME-TAX)

S.O. 1696.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(B), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing a Growth Centre at Industrial (Split) Growth Centre Parbatsar, Nagaur, District-Nagaur, Rajasthan-341001;

And whereas the Central Government has approved the said Growth Centre vide Ministry of Commerce and Industry letter No. 15/139/2005-ID dated 6-12-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of a Growth Centre by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

- | | |
|-------------------------------------------|-----------------------------------------------------------------------------------------|
| 1. (i) Name of the Industrial Undertaking | : Rajasthan State Industrial Development & Investment Corporation Limited. |
| (ii) Proposed location | : Industrial (Split) Growth Centre Parbatsar, Nagaur, District-Nagaur, Rajasthan-341001 |

(iii) Area of Industrial Park : 87.10 acre

(iv) Proposed activities

Nature of Industrial activity with NIC code

		NIC Code			Description
S. No.	Section	Division	Group	Class	
A	2 & 3	—	—	—	Manufacturing

(v) Percentage of allocable area earmarked for Industrial use : 93.68%

(vi) Percentage of allocable area earmarked for commercial use : 4.32%

(vii) Minimum number of industrial units : 24 Units

(viii) Total investments proposed (Amount in Rupees) : 271.67 lakhs

(ix) Investment on built up space for Industrial use (Amount in Rupees) : Nil

(x) Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees) : 246.31 lakhs

(xi) Proposed date of commencement of the Industrial Park : 31-03-2006

2. The minimum investment on infrastructure development in a Growth Centre shall not be less than 50% of the total project cost. In the case of a Growth Centre which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty percent of the allocable industrial area of an Growth Centre. For this purpose a unit means any separate and distinct entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that, for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Growth Centre.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Growth Centre during the period in which the benefits under clause (iii) of sub-section (4) of Section 80IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Growth Centre is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

- the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- it is for the location of the Growth Centre for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the Growth Centre (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the Growth Centre.

[Notification No. 183/2007/F. No. 178/68/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 30 मई, 2007

(आयकर)

का.आ. 1697.—जबकि आयकर अधिनियम 1961 (1961 का 43) (यहां आगे उक्त अधिनियम, कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का. आ. 193 (अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का. आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, औद्योगिक क्षेत्र तारानगर, जिला-चुरू, राजस्थान में एक औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 6-12-2006 के पत्र सं. 15/107/2005-आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब इसलिए उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., औद्योगिक पार्क जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया है।

- | | |
|-----------------------------------|-------------------------------------------------------------------------|
| 1. (i) औद्योगिक उपक्रम का नाम | : राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., |
| (ii) प्रस्तावित स्थान | : तारानगर, जिला-चुरू, राजस्थान |
| (iii) औद्योगिक पार्क का क्षेत्रफल | : 62.50 एकड़ |
| (iv) प्रस्तावित कार्यकलाप : | |

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

एन आई सी संहिता					विवरण
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	—	—	—	बिनिर्माण

- (v) औद्योगिक उपयोग के लिए प्रस्तावित : 97.03%
आबंटनीय क्षेत्र का प्रतिशत

(vi) वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत	: 2.97%
(vii) औद्योगिक यूनिटों की न्यूनतम संख्या	: 13 यूनिटें
(viii) प्रस्तावित कुल निवेश (राशि रूप में)	: 1,27,17,000
(ix) औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रूप में)	: शून्य
(x) अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रूप में)	: 1,12,96,000
(xi) औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि	: 31-3-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसा औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेंज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. विनांक 1 अप्रैल, 2002 की का. आ. 354 (अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का पचास प्रतिशत से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल हैं, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत लाभ प्राप्त हो सकते हैं।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आचर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आचर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देना।

[अधिसूचना सं. 184/2007/फा. सं. 178/68/2007-आ.क. नि.-1]

दीपक गर्ग, अवर सचिव

New Delhi, the 30th May, 2007

(INCOME-TAX)

S.O. 1697.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a Scheme for Industrial Park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at Industrial Area Taranagar, District-Churu, Rajasthan;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/107/2005-ID dated 6-12-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an Industrial Park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an Industrial Park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

1. (i) Name of the Industrial Undertaking : Rajasthan State Industrial Development & Investment Corporation Limited
- (ii) Proposed location : Taranagar, District-Churu, Rajasthan
- (iii) Area of Industrial Park : 62.50 Acres
- (iv) Proposed activities :

Nature of Industrial activity with NIC Code					
S. No.	Section	NIC Code		Description	
		Division	Group	Class	
A	2&3	—	—	—	Manufacturing
(v)	Percentage of allocable area earmarked for Industrial use				: 97.03%
(vi)	Percentage of allocable area earmarked for commercial use				: 2.97%
(vii)	Minimum number of industrial units				: 13 Units
(viii)	Total investments proposed (Amount in Rupees)				: 1,27,17,000
(ix)	Investment on built up space: for Industrial use (Amount in Rupees)				: Nil

- (x) Investment on Infrastructure Development including investment on built up space for industrial use : 1,12,96,000
(Amount in Rupees)

- (xi) Proposed date of commencement of the Industrial Park : 31-3-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty per cent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more State or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80-IA of the Income tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if:

(i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.

(ii) it is for the location of the Industrial Park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the Industrial Park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the Industrial Park.

[Notification No. 184/2007/F. No. 178/68/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 30 मई, 2007

(आयकर)

का.आ. 1698.—जबकि आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम, कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002

को समाप्त होने वाली अवधि के लिये संख्या का. आ. 193 (अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का. आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, हट्टीपुरा औद्योगिक क्षेत्र बूंदी, जिला-बूंदी, राजस्थान में एक औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 19-12-2006 के पत्र सं. 15/128/2005-आई डी के अन्तर्गत उक्त औद्योगिक पार्क को अनुमोदित किया है;

अब इसलिए उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा औद्योगिक पार्क गठित कि जाने हेतु अनुमोदन प्रदान किया है।

1. (i) औद्योगिक उपक्रम का नाम : राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि.
- (ii) प्रस्तावित स्थान : हट्टीपुरा औद्योगिक क्षेत्र बूंदी, जिला-बूंदी, राजस्थान
- (iii) औद्योगिक पार्क का क्षेत्रफल : 74.00 एकड़
- (iv) प्रस्तावित कार्यकलाप :

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

क्रम सं.	एन आई सी संहिता				विवरण
	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	—	—	—	विनिर्माण
(v)	औद्योगिक उपयोग के लिए प्रस्तावित आबंटनीय क्षेत्र का प्रतिशत				: 100%
(vi)	वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत				: शून्य
(vii)	औद्योगिक यूनिटों की न्यूनतम संख्या				: 79 यूनिटें
(viii)	प्रस्तावित कुल निवेश (राशि रुपए में)				: 161.99 लाख
(ix)	औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में)				: शून्य
(x)	अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में)				: 141.58 लाख
(xi)	औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि				: 31-03-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसा औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरब, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की का. आ. 354 (अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का पचास प्रतिशत से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।
5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिक्सी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल हैं, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।
6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं।
7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।
8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।
9. यह अनुमोदन अवैध हो जाएगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि
 - (i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।
 - (ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।
10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।
11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।
12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देना।

[अधिसूचना सं. 185/2007/फा. सं. 178/68/2007-आ.क. नि.-1]

दीपक गर्ग, अवर सचिव

New Delhi, the 30th May, 2007

(INCOME-TAX)

S.O. 1698.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at Hattipura Industrial Area Bundi, District-Bundi, Rajasthan;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/128/2005-ID dated 19-12-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-1A of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said-clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been recorded for setting up of an Industrial Park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

1. (i) Name of the Industrial Undertaking : Rajasthan State Industrial Development & Investment Corporation Limited
- (ii) Proposed location : Hattipura Industrial Area Bundi, District-Bundi, Rajasthan
- (iii) Area of Industrial Park : 74.00 Acres
- (iv) Proposed activities :

Nature of Industrial activity with NIC code

S.No.	Section	NIC Code			Description
		Division	Group	Class	
A	2&3	—	—	—	Manufacturing

- (v) Percentage of allocable area earmarked for Industrial use : 100%
- (vi) Percentage of allocable area earmarked for commercial use : Nil
- (vii) Minimum number of industrial units : 79 Units
- (viii) Total investments proposed (Amount in Rupees) : 161.99 lakhs
- (ix) Investment on built up space for Industrial use (Amount in Rupees) : Nil
- (x) Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees) : 141.58 lakhs
- (xi) Proposed date of commencement of the Industrial Park : 31-03-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty percent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

- (i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- (ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the industrial park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 185/2007/F. No. 178/68/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 30 मई, 2007

(आयकर)

का.आ. 1699.—जबकि आयकर अधिनियम 1961 (1961 का 43) (यहां आगे उक्त अधिनियम, कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का. आ. 193 (अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का. आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, औद्योगिक क्षेत्र, जुरेहड़ा, जिला-भरतपुर, राजस्थान में एक औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 6-12-2006 के पत्र सं. 15/122/2005-आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब इसलिए उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा विकसित तथा अनुसूचित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा औद्योगिक पार्क गठित कि जाने हेतु अनुमोदन प्रदान किया है।

1. (i) औद्योगिक उपक्रम का नाम

: राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि.,

- (ii) प्रस्तावित स्थान : औद्योगिक क्षेत्र, मुनेरगा, जिला-भरतपुर, राजस्थान
- (iii) औद्योगिक पार्क का क्षेत्रफल : 1,72,402.20 वर्ग मीटर
- (iv) प्रस्तावित कार्यकलाप :

एन आई सी संहिता के तहत औद्योगिक कार्यकलाप का स्वरूप

एन आई सी संहिता					विवरण
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	—	—	—	निर्माण

- (v) औद्योगिक उपयोग के लिए प्रस्तावित आबंटनीय क्षेत्र का प्रतिशत : 100%
- (vi) वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत : शून्य
- (vii) औद्योगिक यूनिटों की न्यूनतम संख्या : 20 यूनिटें
- (viii) प्रस्तावित कुल निवेश (राशि रुपए में) : 96.73 लाख
- (ix) औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में) : शून्य
- (x) अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में) : 71.73 लाख
- (xi) औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि : 31-3-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसा औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), कचरापूति तथा सीवरें, इंधित जल स्रोतों सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की का. आ. 354 (अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का पचास प्रतिशत से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आरंभ एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रयुक्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल है, को प्रयुक्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि

- (i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देगा।

[अधिसूचना सं. 186/2007/फा. सं. 178/68/2007-आ.क. नि.-1]

दीपक गर्ग, अवर सचिव

New Delhi, the 30th May, 2007

(INCOME-TAX)

S.O. 1699.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at Industrial Area, Jurehra, District-Bharatpur, Rajasthan;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/122/2005-ID dated 6-12-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an Industrial Park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

1. (i) Name of the Industrial Undertaking, : Rajasthan State Industrial Development & Investment Corporation Limited
- (ii) Proposed location : Industrial Area, Jurehra, District-Bharatpur, Rajasthan
- (iii) Area of Industrial Park : 1,72,402.20 Sq. Mtrs.
- (iv) Proposed activities

Nature of Industrial activity with NIC code

NIC Code					Description
S. No.	Section	Division	Group	Class	
A	2&3	—	—	—	Manufacturing

(v) Percentage of allocable area earmarked for Industrial use	: 100%
(vi) Percentage of allocable area earmarked for commercial use	: Nil
(vii) Minimum number of industrial units	: 20 Units
(viii) Total investments proposed (Amount in Rupees)	: 96.73 lakhs
(ix) Investment on built up space for Industrial use (Amount in Rupees)	: Nil
(x) Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees)	: 71.73 lakhs
(xi) Proposed date of commencement of the Industrial Park	: 31-03-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1 st April, 2002, shall occupy more than fifty per cent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

- (i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- (ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the industrial park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 186/2007/F. No. 178/68/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 30 मई, 2007

(आयकर)

का.आ. 1700.—जबकि आयकर अधिनियम 1961 (1961 का 43) (यहां आगे उक्त अधिनियम, कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का. आ. 193 (अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का. आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, सादुलपुर फेस-III जिला-चुरू, राजस्थान में एक औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 06-12-2006 के पत्र सं. 15/109/2005-आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब इसलिए उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया है।

- | | |
|-----------------------------------|-------------------------------------------------------------------------|
| 1. (i) औद्योगिक उपक्रम का नाम | : राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., |
| (ii) प्रस्तावित स्थान | : सादुलपुर फेस-III, जिला-चुरू, राजस्थान |
| (iii) औद्योगिक पार्क का क्षेत्रफल | : 72.84 एकड़ |
| (iv) प्रस्तावित कार्यकलाप | : |

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

एन आई सी संहिता					विवरण
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	—	—	—	विनिर्माण
(v)	औद्योगिक उपयोग के लिए प्रस्तावित आबंटनीय क्षेत्र का प्रतिशत				: 98.60%
(vi)	वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत				: 1.40%
(vii)	औद्योगिक यूनिटों की न्यूनतम संख्या				: 3 यूनिटें
(viii)	प्रस्तावित कुल निवेश (राशि रुपए में)				: 2,05,70,000
(ix)	औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में)				: शून्य
(x)	अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में)				: 1,63,12,000
(xi)	औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि				: 31-03-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसा औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की का. आ. 354 (अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का पचास प्रतिशत से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल हैं, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत लाभ प्राप्त हो सकते हैं।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर (अर्थात् अन्तरणकर्ता-उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपयुक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपयुक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देना।

[अधिसूचना सं. 187/2007/फा. सं. 178/68/2007-आ.क. नि.-1]

दीपक गर्ग, अवर सचिव

New Delhi, the 30th May, 2007

(INCOME-TAX)

S.O. 1700.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry

(Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at Sadulpur Phase-III, District-Churu, Rajasthan;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/109/2005-ID dated 6-12-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an Industrial Park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an Industrial Park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

1. (i) Name of the Industrial Undertaking, : Rajasthan State Industrial Development & Investment Corporation Limited
- (ii) Proposed location : Sadulpur Phase-III, District-Churu, Rajasthan
- (iii) Area of Industrial Park : 72.84 Acre
- (iv) Proposed activities

Nature of Industrial activity with NIC code

S. No.	NIC Code				Description
	Section	Division	Group	Class	
A	2&3	—	—	—	Manufacturing

- (v) Percentage of allocable area earmarked for Industrial use : 98.60%
- (vi) Percentage of allocable area earmarked for commercial use : 1.40%
- (vii) Minimum number of industrial units : 3 Units
- (viii) Total investments proposed (Amount in Rupees) : 2,05,70,000
- (ix) Investment on built up space for Industrial use (Amount in Rupees) : Nil
- (x) Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees) : 1,63,12,000
- (xi) Proposed date of commencement of the Industrial Park : 31-03-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1 st April, 2002, shall occupy more than fifty percent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

- (i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- (ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the industrial park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 187/2007/F. No. 178/68/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 30 मई, 2007

(आयकर)

क्र.आ. 1701.—जबकि आयकर अधिनियम 1961 (1961 का 43) (यहां आगे उक्त अधिनियम, कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का. आ. 193 (अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का. आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, कुबेर औद्योगिक क्षेत्र रणपुर, जिला-कोटा, राजस्थान में एक औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 19-12-2006 के पत्र सं. 15/131/2005-आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब इसलिए उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया है।

- | | |
|-----------------------------------|-------------------------------------------------------------------------|
| 1. (i) औद्योगिक उपक्रम का नाम | : राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., |
| (ii) प्रस्तावित स्थान | : कुबेर औद्योगिक क्षेत्र, रणपुर, जिला-कोटा, राजस्थान |
| (iii) औद्योगिक पार्क का क्षेत्रफल | : 195.00 एकड़ |
| (iv) प्रस्तावित कार्यकलाप : | |

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

क्रम सं.	एन आई सी संहिता				विवरण
	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	—	—	—	विनिर्माण

- | | |
|-----------------------------------------------------------------------------------------------------------------|---------------|
| (v) औद्योगिक उपयोग के लिए प्रस्तावित आबंटनीय क्षेत्र का प्रतिशत | : 100% |
| (vi) वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत | : शून्य |
| (vii) औद्योगिक यूनिटों की न्यूनतम संख्या | : 251 यूनिटें |
| (viii) प्रस्तावित कुल निवेश (राशि रुपए में) | : 826.37 लाख |
| (ix) औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में) | : शून्य |
| (x) अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में) | : 742.97 लाख |
| (xi) औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि | : 31-03-2006 |

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसा औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की का. आ. 354 (अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का पचास प्रतिशत से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल हैं, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उप-धारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि

- (i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।
- (ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतर्गती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतर्गती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतर्गती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देना।

[अधिसूचना सं. 188/2007/फा. सं. 178/68/2007-आ.क. नि.-1]

दीपक गर्ग, अवर सचिव

New Delhi, the 30th May, 2007

(INCOME-TAX)

S.O. 1701.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at Kuber Industrial Area, Ranpur, District-Kota, Rajasthan;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/131/2005-ID, dated 19-12-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an Industrial Park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

- | | |
|--------------------------------------------|---------------------------------------------------------------------------|
| 1. (i) Name of the Industrial Undertaking, | : Rajasthan State Industrial Development & Investment Corporation Limited |
| (ii) Proposed location | : Kuber Industrial Area, Ranpur, District-Kota, Rajasthan |

(iii) Area of Industrial Park : 195.00 Acre

(iv) Proposed activities

Nature of Industrial activity with NIC code					
NIC Code					Description
S. No.	Section	Division	Group	Class	
A	2&3	—	—	—	Manufacturing

(v) Percentage of allocable area earmarked for Industrial use : 100%

(vi) Percentage of allocable area earmarked for commercial use : Nil

(vii) Minimum number of industrial units : 251 Units

(viii) Total investments proposed (Amount in Rupees) : 826.37 lakhs

(ix) Investment on built up space: for Industrial use (Amount in Rupees) : Nil

(x) Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees) : 742.97 lakhs

(xi) Proposed date of commencement of the Industrial Park : 31-3-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty per cent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more State or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80-IA of the Income-tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

- (i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- (ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the industrial park (i.e., transfer or undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 188/2007/F. No. 178/68/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 30 मई, 2007

(आयकर)

का.आ. 1702.—जबकि आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80 झ क की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193 (अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जिसका रजिस्ट्रार कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, ग्रोथ सेंटर हमीरगढ़, भीलवाड़ा जिला-भीलवाड़ा, राजस्थान-311001 में विकास केन्द्र का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 20-10-2006 के पत्र सं. 15/135/2005-आई पी एंड आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब इसलिये उक्त अधिनियम की धारा 80 झ क की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचारित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर द्वारा ग्रोथ सेंटर गठित किए जाने हेतु अनुमोदन प्रदान किया है।

- | | |
|--------------------------------|------------------------------------------------------------------------|
| 1.. (i) औद्योगिक उपक्रम का नाम | : राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि. |
| (ii) प्रस्तावित स्थान | : ग्रोथ सेंटर हमीरगढ़, भीलवाड़ा, जिला-भीलवाड़ा, राजस्थान-311001 |
| (iii) ग्रोथ सेंटर का क्षेत्रफल | : 725.00 |
| (iv) प्रस्तावित कार्यकलाप | |

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

एन आई सी संहिता					विवरण
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	—	—	—	विनिर्माण

- (v) औद्योगिक उपयोग के लिए प्रस्तावित : 80.31%
आबंटनीय क्षेत्र का प्रतिशत

- (vi) वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत : 5.46%
- (vii) औद्योगिक यूनिटों की न्यूनतम संख्या : 87 यूनिटें
- (viii) प्रस्तावित कुल निवेश (राशि रुपए में) : 3233.91 लाख
- (ix) औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में) : शून्य
- (x) अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में) : 2805.03 लाख
- (xi) ग्रोथ सेंटर के आरंभ होने की प्रस्तावित तिथि : 31-3-2006

2. किसी ग्रोथ सेंटर में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसे ग्रोथ सेंटर जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354(अ) के पैराग्राफ 6 के उप-पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी ग्रोथ सेंटर के लिए नियत औद्योगिक क्षेत्र का 50% से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के ग्रोथ सेंटर में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर उस अवधि के दौरान ग्रोथ सेंटर का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त ग्रोथ सेंटर के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि—

- (i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।
- (ii) यह उक्त ग्रोथ सेंटर की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) ग्रोथ सेंटर का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, ग्रोथ सेंटर के अनुमोदन को अवैध बना देगा।

[अधिसूचना सं. 189/2007/फा. सं. 178/49/2007-आ.क. नि.-I]

दीपक गर्ग, अवर सचिव

New Delhi, the 30th May, 2007

(INCOME-TAX)

S.O. 1702.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) *vide* number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and *vide* number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing a Growth Centre at Growth Centre Hamirgarh Bhilwara, District-Bhilwara, Rajasthan-311001;

And whereas the Central Government has approved the said Growth Centre *vide* Ministry of Commerce and Industry letter No. 15/135/2005-IP & ID dated 20-10-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of a Growth Centre by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

1. (i) Name of the Industrial Undertaking : Rajasthan State Industrial Development & Investment Corporation Limited
- (ii) Proposed location : Growth Centre Hamirgarh Bhilwara
District-Bhilwara, Rajasthan-311001
- (iii) Area of Groth Centre : 725.00 Acres
- (iv) Proposed activities

Nature of Industrial activity with NIC code					
		NIC Code			Description
S. No.	Section	Division	Group	Class	
A	2 & 3	—	—	—	Manufacturing
(v)	Percentage of allocable area earmarked for Industrial use				: 80.31%
(vi)	Percentage of allocable area earmarked for commercial use				: 5.46%
(vii)	Minimum number of industrial units				: 87 Units
(viii)	Total investments proposed (Amount in Rupees)				: 3233.91 lakhs
(ix)	Investment on built up space for Industrial use (Amount in Rupees)				: Nil

(x) Investment on Infrastructure Development including : 2805.03 lakhs
investment on built up space for industrial use
(Amount in Rupees)

(xi) Proposed date of commencement of the Growth Centre : 31-03-2006

2. The minimum investment on infrastructure development in a Growth Centre shall not be less than 50% of the total project cost. In the case of a Growth Centre which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty percent of the allocable industrial area of an Growth Centre. For this purpose a unit means any separate and distinct entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Growth Centre.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Growth Centre during the period in which the benefits under clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Growth Centre is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80-IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

- (i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- (ii) it is for the location of the Growth Centre for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the Growth Centre (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the Growth Centre.

[Notification No. 189/2007/F. No. 178/49/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली. 30 मई, 2007

(आयकर)

का.आ. 1703.—जबकि आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80 झ क की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193(अ) दिनांक 30 मार्च, 1999 के ज़रिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा

31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, औद्योगिक क्षेत्र रावला, आरआईआईसीओ लि., रावला, जिला-श्रीगंगानगर, राजस्थान-335002 में औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 20-10-2006 के पत्र सं. 15/146/2005-आई पी एंड आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब इसलिए उक्त अधिनियम की धारा 80अक की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्द्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया है।

- | | |
|-----------------------------------|-----------------------------------------------------------------------------------|
| 1. (i) औद्योगिक उपक्रम का नाम | राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., |
| (ii) प्रस्तावित स्थान | : औद्योगिक क्षेत्र रावला, आरआईआईसीओ लि., रावला, जिला-श्रीगंगानगर, राजस्थान-335002 |
| (iii) औद्योगिक पार्क का क्षेत्रफल | : 220.43 एकड़ |
| (iv) प्रस्तावित कार्यकलाप | |

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

एन आई सी संहिता					विवरण
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	--	-	-	बिनिर्माण
(v)	औद्योगिक उपयोग के लिए प्रस्तावित आबंटनीय क्षेत्र का प्रतिशत				: 87.96%
(vi)	वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत				: 1.44%
(vii)	औद्योगिक यूनिटों की न्यूनतम संख्या				: 40 यूनिटें
(viii)	प्रस्तावित कुल निवेश (राशि रुपए में)				: 303.44 लाख
(ix)	औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में)				: शून्य
(x)	अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में)				: 253.44 लाख
(xi)	औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि				: 31-3-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेंज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354 (अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का 50% से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का अंश एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उप-धारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देगा।

[अधिसूचना सं. 190/2007/फा. सं. 178/39/2007-आ.क. नि.-1]

दीपक गर्ग, अवर सचिव

New Delhi, the 30th May, 2007

(INCOME-TAX)

S.O. 1703.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002 for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And, whereas, M/s. Rajasthan State Industrial Development and Investment Corporation Limited, having registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at Industrial Area Rawla, RIICO Limited, Rawla, District-Sriganganagar, Rajasthan-335002;

And, whereas, the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry Letter No. 15/146/2005-IP&ID dated 20-10-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development and Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an Industrial Park by M/s. Rajasthan State Industrial Development and Investment Corporation Limited, Jaipur :

1. (i) Name of the Industrial Undertaking, : Rajasthan State Industrial Development and Investment Corporation Limited.
- (ii) Proposed location : Industrial Area Rawla, RIICO Limited Rawla, District-Sriganganagar, Rajasthan-335002.
- (iii) Area of Industrial Park : 220.43 Acres
- (iv) Proposed activities

Nature of Industrial activity with NIC Code

S. No.	NIC Code				Description
	Section	Division	Group	Class	
A	283	—	—	—	Manufacturing

- (v) Percentage of allocable area earmarked for Industrial use : 87.96%
- (vi) Percentage of allocable area earmarked for commercial use : 1.44%
- (vii) Minimum number of industrial units : 40 Units
- (viii) Total investments proposed (Amount in Rupees) : 303.44 lakhs
- (ix) Investment on built up Space for Industrial use (Amount in Rupees) : Nil
- (x) Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees) : 253.44 lakhs
- (xi) Proposed date of commencement of the Industrial Park : 31-03-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty per cent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if—

- (i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- (ii) it is for the location of the Industrial Park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the Industrial Park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 190/2007/F. No. 178/39/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 30 मई, 2007

(आयकर)

का.आ. 1704.—जबकि, आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80झक की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193(अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और, जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, एग्री फूड पार्क, आरआईआईसीओ लिमिटेड, उद्योग विहार, जिला-श्रीगंगानगर, राजस्थान-335002 में औद्योगिक पार्क का विकास कर रहा है;

और, जबकि, केन्द्र सरकार ने, इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 06-12-2006 के पत्र सं. 15/149/2005-आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब, इसलिए, उक्त अधिनियम की धारा 80झक की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया है।

1. (i) औद्योगिक उपक्रम का नाम

: राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि.,

- (ii) प्रस्तावित स्थान : एग्रो फूड पार्क, आरआईआईसीओ लिमिटेड, उद्योग विहार, जिला श्रीगंगानगर, राजस्थान-335002
- (iii) औद्योगिक पार्क का क्षेत्रफल : 81.14 एकड़
- (iv) प्रस्तावित कार्यकलाप

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

एन आई सी संहिता		विवरण			
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	-	-	-	विनिर्माण
(v)	औद्योगिक उपयोग के लिए प्रस्तावित आबंटनीय क्षेत्र का प्रतिशत				: 96.42%
(vi)	वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत				: 3.58%
(vii)	औद्योगिक यूनिटों की न्यूनतम संख्या				: 15 यूनिटें
(viii)	प्रस्तावित कुल निवेश (राशि रुपए में)				: 7,10,82,000
(ix)	औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में)				: शून्य
(x)	अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में)				: 5,86,18,000
(xi)	औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि				: 31-3-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेंज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354(अ) के पैराग्राफ 6 के उप-पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का पचास प्रतिशत से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उप-धारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उप-धारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि

- (i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।
- (ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतर्गती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतर्गती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतर्गती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देगा।

[अधिसूचना सं. 191/2007/फा. सं. 178/48/2007-आ.क. नि.-1]

दीपक गर्ग, अवर सचिव

New Delhi, the 30th May, 2007

(INCOME-TAX)

S.O. 1704.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for Industrial Park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having Registered office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at Agro Food Park, RIICO Limited, Udyog Vihar, District-Sriganganagar, Rajasthan-335002;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/149/2005-ID dated 6-12-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an Industrial Park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an Industrial Park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

- | | |
|-------------------------------------------|----------------------------------------------------------------------------------------|
| 1. (i) Name of the Industrial Undertaking | : Rajasthan State Industrial Development and Investment Corporation Limited. |
| (ii) Proposed location | : Agro Food Park, RIICO Limited, Udyog Vihar District Sriganganagar, Rajasthan-335002. |
| (iii) Area of Industrial Park | : 81.14 Acres. |

(iv) Proposed activities

Nature of Industrial activity with NIC Code					
S. No.	NIC Code				Description
	Section	Division	Group	Class	
A	2 & 3	—	—	—	Manufacturing

- (v) Percentage of allocable area earmarked for Industrial use : 96.42%
- (vi) Percentage of allocable area earmarked for commercial use : 3.58%
- (vii) Minimum number of industrial units : 15 Units
- (viii) Total investments proposed (Amount in Rupees) : 7,10,82,000/-
- (ix) Investment on built up space for Industrial use (Amount in Rupees) : Nil
- (x) Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees) : 5,86,18,000/-
- (xi) Proposed date of commencement of the Industrial Park : 31-03-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty per cent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more State or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80-IA of the Income-tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

- the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- it is for the location of the Industrial Park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the Industrial Park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the Industrial Park.

[Notification No. 191/2007/F. No. 178/48/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 30 मई, 2007

(आयकर)

का.आ. 1705.—जबकि आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193 (अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जिसका पंजीकृत कार्यालय उद्योग भवन, तिलक मार्ग, जयपुर-302005 में है, औद्योगिक क्षेत्र बोर्नाडा-IV फेस ग्राम-बोर्नाडा, तहसील-लूनी, जिला-जोधपुर, राजस्थान-342001 में औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 20-10-2006 के पत्र सं. 15/127/2005-आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब इसलिए उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., जयपुर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया है।

- | | |
|-----------------------------------|-----------------------------------------------------------------------------------------------|
| 1. (i) औद्योगिक उपक्रम का नाम | : राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कार्पोरेशन लि., |
| (ii) प्रस्तावित स्थान | : औद्योगिक क्षेत्र, बोर्नाडा-IV फेस, ग्राम-बोर्नाडा, तहसील-लूनी, जिला-जोधपुर, राजस्थान-342001 |
| (iii) औद्योगिक पार्क का क्षेत्रफल | : 333.08 एकड़ |
| (iv) प्रस्तावित कार्यकलाप | |

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

क्रम सं.	एन आई सी संहिता				विवरण
	अनुभाग	प्रभाग	समूह	श्रेणी	
क	2 एवं 3	—	—	—	विनिर्माण

- (v) औद्योगिक उपयोग के लिए प्रस्तावित आबंटनीय क्षेत्र का प्रतिशत : 92.05%

- (vi) वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत : 7.95%
- (vii) औद्योगिक यूनिटों की न्यूनतम संख्या : 195 यूनिटें
- (viii) प्रस्तावित कुल निवेश (राशि रुपये में) : 1731.00 लाख
- (ix) औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपये में) : शून्य
- (x) अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपये में) : 1377.92 लाख
- (xi) औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि : 31-3-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेंज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की सं. का.आ. 354 (अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का 50% से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथासमय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत लाभ प्राप्त हो सकते हैं।

7. मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उप-धारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उप-धारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि—

- (i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।
- (ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतर्गती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतर्गती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतर्गती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स राजस्थान स्टेट इंडस्ट्रियल डेवलपमेंट एंड इन्वेस्टमेंट कॉर्पोरेशन लि., जयपुर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देगा।

[अधिसूचना सं. 192/2007/फा. सं. 178/50/2007-आ.क. नि.-I]

दीपक गर्ग, अवर सचिव

New Delhi, the 30th May, 2007

(INCOME-TAX)

S.O. 1705.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a Scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) *vide* number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and *vide* number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas, M/s. Rajasthan State Industrial Development & Investment Corporation Limited, having Registered Office at Udyog Bhawan, Tilak Marg, Jaipur-302005 is developing an Industrial Park at Industrial Area Boranada-IV Phase, Village-Boranada, Tehsil-Luni, District-Jodhpur, Rajasthan-342 001;

And whereas the Central Government has approved the said Industrial Park *vide* Ministry of Commerce and Industry letter No. 15/127/2005-IP&ID dated 20-10-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an industrial park by M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur.

1. (i) Name of the Industrial Undertaking : Rajasthan State Industrial Development & Investment Corporation Limited
- (ii) Proposed location : Industrial Area Boranada-IV, Phase, Village-Boranada, Tehsil-Luni, District-Jodhpur, Rajasthan-342 001
- (iii) Area of Industrial Park : 333.08 Acres
- (iv) Proposed activities

Nature of Industrial activity with NIC Code					
		NIC Code			Description
S. No.	Section	Division	Group	Class	
A	2 & 3	—	—	—	Manufacturing
(v)	Percentage of allocable area earmarked for Industrial use				: 92.05%
(vi)	Percentage of allocable area earmarked for commercial use				: 7.95%
(vii)	Minimum numbers of industrial units				: 195 Units
(viii)	Total investments proposed (Amount in Rupees)				: 1731.00 lakhs
(ix)	Investment on built up space for Industrial use (Amount in Rupees)				: Nil

- (x) Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees) : 1377.92 lakhs
- (xi) Proposed date of commencement of the Industrial Park : 31-03-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of a Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1 st April, 2002, shall occupy more than fifty percent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more state or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act, can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, shall be solely responsible for any repercussions of such invalidity, if

- (i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- (ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, transfers the operation and maintenance of the industrial park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Rajasthan State Industrial Development & Investment Corporation Limited, Jaipur, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 192/2007/F. No. 178/50/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 31 मई, 2007

(आयकर)

का.आ. 1706.—जबकि, आयकर अधिनियम, 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80इक की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने, 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193(अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा

31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और, जबकि, मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, 97/बी, द्वितीय तल, 6 ब्लॉक, कोरामंगला, बंगलौर-560 095 प्री टेक पार्क, क्रम सं. 17, 20-25, 29, 43 और 44, बैल्लांडूर बर्थूर, हुबली, बंगलौर पश्चिम तालुक बंगलौर, कर्नाटक-560 032 में औद्योगिक पार्क का विकास कर रहा है;

और, जबकि, केन्द्र सरकार ने, इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 5-12-2006 के पत्र सं. 15/206/2005-आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब, इसलिए, उक्त अधिनियम की धारा 80 झक की उप-धारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया है।

1. (i) औद्योगिक उपक्रम का नाम	: मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड,
(ii) प्रस्तावित स्थान	: प्री टेक पार्क, क्रम सं. 17, 20-25, 29, 43 और 44, बैल्लांडूर बर्थूर, हुबली, बंगलौर पश्चिम तालुक बंगलौर, कर्नाटक-560 032
(iii) औद्योगिक पार्क का क्षेत्रफल	: 241620 वर्ग मीटर
(iv) प्रस्तावित कार्यकलाप	

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप

क्रम सं.	एन आई सी संहिता				विवरण
	अनुभाग	प्रभाग	समूह	श्रेणी	
क	8	89	892	892.2	साफ्टवेयर सप्लाय सर्विसिज

(v) औद्योगिक उपयोग के लिए प्रस्तावित आबंटनीय क्षेत्र का प्रतिशत	: 95%
(vi) वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत	: 5%
(vii) औद्योगिक यूनिटों की न्यूनतम संख्या	: 05 यूनिटें
(viii) प्रस्तावित कुल निवेश (राशि रुपए में)	: 25,83,58,148
(ix) औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में)	: 18,12,15,000
(x) अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में)	: 23,11,15,000
(xi) औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि	: 28-2-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरेंज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं वितरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354 (अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का 50% से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं।

7. मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि :

- (i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।
- (ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतर्गती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतर्गती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतर्गती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देगा।

[अधिसूचना सं. 201/2007/फा. सं. 178/72/2007-आ.क. नि.-1]

दीपक गर्ग, अवर सचिव

New Delhi, the 31st May, 2007

(INCOME-TAX)

S.O. 1706.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for Industrial Park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Primal Projects Private Limited, 97/B, 2nd Floor, 6th Block Koramangala, Bangalore-560 095, is developing an Industrial Park at Pri Tech Park, Sy. No. 17, 20—25, 29, 43 & 44, Bellandur, Varthur Hobli, Bangalore East Taluk, Bangalore, Karnataka-560 032;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/206/2005-ID dated 5-12-2006 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Primal Projects Private Limited, Bangalore, as an Industrial Park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an Industrial Park by M/s. Primal Projects Private Limited, Bangalore.

1. (i) Name of the Industrial Undertaking : M/s. Primal Projects Private Limited,
- (ii) Proposed location : Pri Tech Park, Sy. Nos. 17, 20—25, 29, 43 & 44, Bellandur, Varthur Hobli, Bangalore East Taluk, Bangalore, Karnataka-560 032
- (iii) Area of Industrial Park: : 241620 Sq. Ft.
- (iv) Proposed activities.

Nature of Industrial activity with NIC code					
S.No.	NIC Code				Description
	Section	Division	Group	Class	
A	8	89	892	892.2	Software supply services

- (v) Percentage of allocable area earmarked for Industrial use : 95%
- (vi) Percentage of allocable area earmarked for Commercial use : 5%
- (vii) Minimum number of industrial units : 05 Units
- (viii) Total investments proposed (Amount in Rupees) : 25,83,58,148/-
- (ix) Investment on built up space for Industrial use (Amount in Rupees) : 18,12,15,000/-
- (x) Investment on Infrastructure Development including investment on built up space for Industrial use (Amount in Rupees) : 23,11,15,000/-
- (xi) Proposed date of commencement of the Industrial Park : 28-02-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for Industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty percent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more State or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Primal Projects Private Limited, Bangalore, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Primal Projects Private Limited, Bangalore, shall be solely responsible for any repercussions of such invalidity, if—

- (i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- (ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Primal Projects Private Limited, Bangalore, transfers the operation and maintenance of the Industrial Park (i.e., transferor undertaking) to another under taking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 alongwith a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval, in case M/s. Primal Projects Private Limited, Bangalore, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the industrial park.

[Notification No. 201/2007/F. No. 178/72/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 31 मई, 2007

(आयकर)

का.आ. 1707.—जबकि आयकर अधिनियम 1961 (1961 का 43) (यहां आगे उक्त अधिनियम कहा गया है) की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार ने 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2002 को समाप्त होने वाली अवधि के लिये संख्या का.आ. 193 (अ) दिनांक 30 मार्च, 1999 के जरिए तथा 1 अप्रैल, 1997 से शुरू होकर तथा 31 मार्च, 2006 को समाप्त अवधि के लिए संख्या का.आ. 354(अ) के जरिए भारत सरकार, वाणिज्य और उद्योग मंत्रालय (औद्योगिक नीति और संवर्धन विभाग) की अधिसूचनाओं द्वारा औद्योगिक पार्क की योजना निर्मित और अधिसूचित की है;

और जबकि मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, 97/बी, द्वितीय तल, 6 ब्लॉक, कोरामंगला, बंगलौर-560 095 कैम्पस 4ए और 4बी प्री टेक पार्क, क्रम सं. 17, 20-25, 29, 43 और 44, बैल्लांडूर बर्थूर, हुबली, बंगलौर पश्चिम तालुक बंगलौर, कर्नाटक-560 032 में औद्योगिक पार्क का विकास कर रहा है;

और जबकि केन्द्र सरकार ने इस अधिसूचना के अनुबंध में उल्लिखित नियम और शर्तों के अधीन वाणिज्य तथा उद्योग मंत्रालय के दिनांक 10-04-2007 के पत्र सं. 15/136/2006-आई डी के अन्तर्गत उक्त औद्योगिक पार्क अनुमोदित किया है;

अब इसलिए उक्त अधिनियम की धारा 80 झ क की उपधारा (4) के खंड (iii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उक्त खंड (iii) के प्रयोजनार्थ औद्योगिक पार्क के रूप में मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर द्वारा विकसित तथा अनुरक्षित एवं प्रचालित किए जा रहे उक्त उपक्रम को अधिसूचित करती है।

अनुबंध

शर्तें जिन पर भारत सरकार ने मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर द्वारा औद्योगिक पार्क गठित किए जाने हेतु अनुमोदन प्रदान किया है।

- | | |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 1. (i) औद्योगिक उपक्रम का नाम | : मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, |
| (ii) प्रस्तावित स्थान | : कैम्पस 4ए और 4बी प्री टेक पार्क, क्रम सं. 17, 20-25, 29, 43 और 44, बैल्लांडूर बर्थूर, हुबली, बंगलौर पश्चिम तालुक बंगलौर, कर्नाटक-560 032 |
| (iii) औद्योगिक पार्क का क्षेत्रफल | : 5,24,406.68 वर्ग मीटर |

(iv) प्रस्तावित कार्यकलाप :

एन आई सी संहिता के साथ औद्योगिक कार्यकलाप का स्वरूप					
एन आई सी संहिता				विवरण	
क्रम सं.	अनुभाग	प्रभाग	समूह	श्रेणी	
क	8	89	892	892.2	साफ्टवेयर सप्लाय सर्विसिज
(v)	औद्योगिक उपयोग के लिए प्रस्तावित आबंटनीय क्षेत्र का प्रतिशत				: 95%
(vi)	वाणिज्यिक उपयोग के लिए निर्धारित भूमि का प्रतिशत				: 5%
(vii)	औद्योगिक यूनिटों की न्यूनतम संख्या				: 04 यूनिटें
(viii)	प्रस्तावित कुल निवेश (राशि रुपए में)				: 60,50,78,150
(ix)	औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश (राशि रुपए में)				: 52,44,07,000
(x)	अवसंरचनात्मक विकास पर निवेश जिसमें औद्योगिक उपयोग के लिए निर्मित स्थान पर निवेश भी शामिल है (राशि रुपए में)				: 58,78,07,000
(xi)	औद्योगिक पार्क के आरंभ होने की प्रस्तावित तिथि				: 28-2-2006

2. किसी औद्योगिक पार्क में अवसंरचना विकास पर न्यूनतम निवेश कुल परियोजना लागत के 50% से कम नहीं होगा। ऐसे औद्योगिक पार्क जो औद्योगिक उपयोग के लिए निर्मित स्थल प्रदान करता है, के मामले में औद्योगिक स्थल के निर्माण कार्य की लागत सहित विकास अवसंरचना पर न्यूनतम खर्च कुल परियोजना लागत के 60% से कम नहीं होगा।

3. संरचना विकास में सड़क (सम्पर्क सड़क सहित), जलापूर्ति तथा सीवरज, दूषित जल शोधन सुविधा, टेलिकॉम नेटवर्क, विद्युत उत्पादन एवं विवरण, वातानुकूलन तथा ऐसी अन्य सुविधाएं जो औद्योगिक कार्यकलाप हेतु सामान्य उपयोग के लिए हैं जो वाणिज्यिक दृष्टि से निर्धारणीय एवं प्रयुक्त हैं।

4. दिनांक 1 अप्रैल, 2002 की का.आ. 354 (अ) के पैराग्राफ 6 के उप पैराग्राफ (ख) में निर्दिष्ट तालिका के कालम (2) में उल्लिखित कोई एकल इकाई किसी औद्योगिक पार्क के लिए नियत औद्योगिक क्षेत्र का 50% से अधिक हिस्सा धारित नहीं करेगी। इस प्रयोजनार्थ किसी इकाई का आशय एक या एक से अधिक राज्य अथवा केन्द्रीय कर कानून के प्रयोजन के लिए किसी अलग तथा भिन्न कम्पनी से है।

5. आवश्यक अनुमोदनों जिनमें विदेशी निवेश संवर्धन बोर्ड के द्वारा विदेशी प्रत्यक्ष निवेश अथवा अनिवासी भारतीय निवेश अथवा भारतीय रिजर्व बैंक अथवा यथा समय प्रवृत्त किसी कानून के अन्तर्गत विनिर्दिष्ट कोई प्राधिकरण भी शामिल है, को प्रवृत्त नीति तथा प्रक्रियाओं के अनुसार अलग से लिया जाएगा।

6. इस अधिसूचना के पैरा 1 (vii) में विनिर्दिष्ट संख्या में इकाइयों के औद्योगिक पार्क में अवस्थित होने के उपरान्त ही इस अधिनियम के अन्तर्गत कर लाभ प्राप्त हो सकते हैं।

7. मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर उस अवधि के दौरान औद्योगिक पार्क का प्रचालन जारी रखेगा जिस अवधि में आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा (4) के खंड (iii) के अन्तर्गत लाभ लिए जाने हैं।

8. यदि उक्त औद्योगिक पार्क के आरंभ होने में इस अधिसूचना के पैरा 1 (xi) में निर्दिष्ट तिथि से एक वर्ष से ज्यादा विलम्ब होता है तो आयकर अधिनियम, 1961 की धारा 80 झ क की उपधारा 4 (iii) के अंतर्गत लाभ प्राप्त करने के लिए औद्योगिक पार्क योजना, 2002 के अंतर्गत नया अनुमोदन प्राप्त करना अपेक्षित होगा।

9. यह अनुमोदन अवैध हो जाएगा और मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर ऐसी अवैधता की किसी प्रतिक्रिया के लिए स्वयं ही जिम्मेदार होगा, यदि-

(i) आवेदन पत्र जिसके आधार पर केन्द्र सरकार द्वारा अनुमोदन प्रदान किया गया है, में गलत सूचना/सूचना अथवा कतिपय तथ्यपरक सूचना न दी गई हो।

(ii) यह उक्त औद्योगिक पार्क की अवस्थिति हेतु है जिसके लिए अनुमोदन किसी अन्य उपक्रम के नाम में पहले ही प्रदान किया गया है।

10. यदि मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर (अर्थात् अन्तरणकर्ता उपक्रम) औद्योगिक पार्क का प्रचालन और अनुरक्षण किसी दूसरे उपक्रम (अर्थात् अंतरिती उपक्रम) को हस्तांतरित करेगा तो अंतरणकर्ता और अंतरिती उपर्युक्त हस्तांतरण के लिए अंतरणकर्ता और अंतरिती उपक्रम के बीच निष्पादित करार की प्रति के साथ औद्योगिक सहायता सचिवालय, औद्योगिक नीति और संवर्धन विभाग, उद्योग भवन, नई दिल्ली-11 की उद्यमशीलता सहायता यूनिट संयुक्त रूप से सूचित करेंगे।

11. इस अधिसूचना में उल्लिखित शर्तों के साथ-साथ औद्योगिक पार्क स्कीम, 2002 में शामिल उन शर्तों का अनुपालन उस अवधि के दौरान किया जाना चाहिए जिसके लिए इस स्कीम के अंतर्गत लाभ प्राप्त किए जाने हैं। केन्द्र सरकार उपर्युक्त अनुमोदन को वापस ले सकती है यदि मैसर्स प्रीमल प्रोजेक्ट्स प्राइवेट लिमिटेड, बंगलौर औद्योगिक पार्क स्कीम, 2002 में विहित शर्तों अथवा इस अधिसूचना की किसी भी शर्त के अनुपालन में असफल रहता है।

12. केन्द्र सरकार के अनुमोदन के बिना प्रोजेक्ट प्लान में किया गया कोई भी संशोधन अथवा भविष्य में पता लगाना अथवा किसी ठोस तथ्य का उद्घाटन करने में आवेदक का असफल रहना, औद्योगिक पार्क के अनुमोदन को अवैध बना देगा।

[अधिसूचना सं. 202/2007/फा. सं. 178/73/2007-आ.क. नि.-I]

दीपक गर्ग, अवर सचिव

New Delhi, the 31st May, 2007

(INCOME-TAX)

S.O. 1707.—Whereas the Central Government in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the said Act), has framed and notified a scheme for industrial park, by the notifications of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) vide number S.O. 193(E), dated the 30th March, 1999, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2002 and vide number S.O. 354(E) dated the 1st day of April, 2002, for the period beginning on the 1st day of April, 1997 and ending on the 31st day of March, 2006;

And whereas M/s. Primal Projects Private Limited, 97/B, 2nd Floor, 6th Block Karamangala, Bangalore-560 095, is developing an Industrial Park at Campus 4A and 4B, Pri Tech Park, Sy. No. 17, 20-25, 29, 43 & 44, Bellandur, Varthur Hobli, Bangalore East Taluk, Bangalore, Karnataka-560 032;

And whereas the Central Government has approved the said Industrial Park vide Ministry of Commerce and Industry letter No. 15/136/2006-ID dated 10-4-2007 subject to the terms and conditions mentioned in the annexure to this notification;

Now, therefore, in exercise of the powers conferred by clause (iii) of sub-section (4) of Section 80-IA of the said Act, the Central Government hereby notifies the undertaking, being developed and being maintained and operated by M/s. Primal Projects Private Limited, Bangalore, as an industrial park for the purposes of the said clause (iii).

ANNEXURE

The terms and conditions on which the approval of the Government of India has been accorded for setting up of an Industrial Park by M/s. Primal Projects Private Limited, Bangalore.

1. (i) Name of the Industrial Undertaking, Campus 4A and 4B : M/s. Primal Projects Private Limited,
- (ii) Proposed location : Campus 4 A & 4B, Pri Tech Park, Sy. No. 17, 20-25, 29, 43 & 44, Bellandur, Varthur Hobli, Bangalore East Taluk, Bangalore, Karnataka-560 032.
- (iii) Area of Industrial Park : 5,24,406.68 Sq. Ft.
- (iv) Proposed activities :

Nature of Industrial activity with NIC code					
		NIC Code			Description
S. No.	Section	Division	Group	Class	
A	8	89	892	892.2	Software supply services
(v) Percentage of allocable area earmarked for Industrial use					: 95%

(vi) Percentage of allocable area earmarked for commercial use	: 5%
(vii) Minimum number of industrial units	: 04 Units
(viii) Total investments proposed (Amount in Rupees)	: 60,50,78,150/-
(ix) Investment on built up space: for Industrial use (Amount in Rupees)	: 52,44,07,000/-
(x) Investment on Infrastructure Development including investment on built up space for industrial use (Amount in Rupees)	: 58,78,07,000/-
(xi) Proposed date of commencement of the Industrial Park	: 28-02-2006

2. The minimum investment on infrastructure development in an Industrial Park shall not be less than 50% of the total project cost. In the case of an Industrial Park which provides built-up space for industrial use, the minimum expenditure on infrastructure development including cost of construction of industrial space, shall not be less than 60% of the total project cost.

3. Infrastructure development shall include, roads (including approach roads), water supply and sewerage, common effluent treatment facility, telecom network, generation and distribution of power, air-conditioning and such other facilities as are for common use for industrial activity which are identifiable and are provided on commercial terms.

4. No single unit referred to in column (2) of the Table given in sub-paragraph (b) of paragraph 6 of S.O. 354(E) dated the 1st April, 2002, shall occupy more than fifty percent of the allocable industrial area of an Industrial Park. For this purpose a unit means any separate and distinct entity for the purpose of one and more State or Central tax laws.

5. Necessary approvals, including that for foreign direct investment or non-resident Indian investment by the Foreign Investment Promotion Board or Reserve Bank of India or any authority specified under any law for the time being in force, shall be taken separately as per the policy and procedures in force.

6. The tax benefits under the Act can be availed of only after the number of units indicated in Para 1 (vii) of this Notification, are located in the Industrial Park.

7. M/s. Primal Projects Private Limited, Bangalore, shall continue to operate the Industrial Park during the period in which the benefits under clause (iii) of sub-section (4) of Section 80-IA of the Income-tax Act, 1961 are to be availed.

8. In case the commencement of the Industrial Park is delayed by more than one year from the date indicated in Para 1 (xi) of this notification, fresh approval will be required under the Industrial Park Scheme, 2002, for availing benefits under sub-section 4(iii) of Section 80-IA of the Income Tax Act, 1961.

9. The approval will be invalid and M/s. Primal Projects Private Limited, Bangalore, shall be solely responsible for any repercussions of such invalidity, if

- (i) the application on the basis of which the approval is accorded by the Central Government contains wrong information/misinformation or some material information has not been provided in it.
- (ii) it is for the location of the industrial park for which approval has already been accorded in the name of another undertaking.

10. In case M/s. Primal Projects Private Limited, Bangalore, transfers the operation and maintenance of the Industrial Park (i.e., transferor undertaking) to another undertaking (i.e., the transferee undertaking), the transferor and transferee shall jointly intimate to the Entrepreneurial Assistance Unit of the Secretariat for Industrial Assistance, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-11 along with a copy of the agreement executed between the transferor and transferee undertaking for the aforesaid transfer.

11. The conditions mentioned in this notification as well as those included in the Industrial Park Scheme, 2002 should be adhered to during the period for which benefits under this scheme are to be availed. The Central Government may withdraw the above approval in case M/s. Primal Projects Private Limited, Bangalore, fails to comply with any of the conditions.

12. Any amendment of the project plan without the approval of the Central Government or detection in future, or failure on the part of the applicant to disclose any material fact, will invalidate the approval of the Industrial Park.

[Notification No. 202/2007/F. No. 178/73/2007-ITA-I]

DEEPAK GARG, Under Secy.

नई दिल्ली, 31 मई, 2007

का.आ. 1708.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में राजस्व विभाग के अधीन केन्द्रीय उत्पाद एवं सीमा शुल्क बोर्ड के निम्नलिखित क्षेत्रीय कार्यालय को, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:—

सेवाकर आयुक्तालय दिल्ली,
17-बी, इन्द्रप्रस्थ एस्टेट,
आई.ए.ई.ए. हाउस,
नई दिल्ली

[फा. सं. 11013(01)2007-हिन्दी-2]

मधु शर्मा, निदेशक (राजभाषा)

New Delhi, the 31st May, 2007

S.O. 1708.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following office under the Board of Central Excise & Customs, Department of Revenue, the 80% staff whereof have acquired the working knowledge of Hindi:—

Commissioner of Service Tax Delhi,
17-B, I.P. Estate,
IAEA House,
New Delhi

[F.No. 11013(01)2007-Hindi-2]

MADHU SHARMA, Director (OL)

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 4 जून, 2007

का.आ. 1709.—राष्ट्रीयकृत बैंक (प्रबंधन एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से डॉ. के. सी. चक्रवर्ती (जन्म तिथि-27-06-1952) इंडियन बैंक के अध्यक्ष एवं प्रबन्ध निदेशक को उनके पदभार ग्रहण करने की तारीख से पांच वर्ष की अवधि के लिए और/अथवा अगले आदेश होने तक, जो भी पहले हो, पंजाब नेशनल बैंक के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा. सं. 9/24/2006-बीओ-1]

जी. बी. सिंह, उप-सचिव

(Department of Economic Affairs)

(BANKING DIVISION)

New Delhi, the 4th June, 2007

S.O. 1709.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, in consultation with the Reserve Bank of India, hereby appoints Dr. K.C. Chakraborty (DoB : 27-06-1952) Chairman & Managing Director, Indian Bank as Chairman & Managing Director, Punjab National Bank for a period of five years from the date of taking over charge and/or until further orders, whichever is earlier.

[F.No. 9/24/2006-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 4 जून, 2007

का.आ. 1710.—राष्ट्रीयकृत बैंक (प्रबंधन एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से श्री आलोक कुमार मिश्रा (जन्म तिथि-23-09-1952) वर्तमान में केनरा बैंक के कार्यपालक निदेशक को उनके पदभार ग्रहण करने की तारीख से पांच वर्ष की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, ओरियंटल बैंक आफ कामर्स के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा. सं. 9/24/2006-बीओ-1]

जी. बी. सिंह, उप-सचिव

New Delhi, the 4th June, 2007

S.O. 1710.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, in consultation with the Reserve Bank of India, hereby appoints Shri Alok Kumar Misra (DoB : 23-09-1952) presently Executive Director, Canara Bank as Chairman & Managing Director, Oriental Bank of Commerce for a period of five years from the date of his taking charge of the post and/or until further orders, whichever is earlier.

[F.No. 9/24/2006-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 4 जून, 2007

का.आ. 1711.—राष्ट्रीयकृत बैंक (प्रबंधन एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से श्री एस. ए. भट्ट (जन्म तिथि—20-10-1950) वर्तमान में यूको बैंक के कार्यपालक निदेशक को उनके पदभार ग्रहण करने की तारीख से और 31 अक्टूबर, 2010 तक अर्थात् जब वे अधिवर्षिता की आयु पूरी करेंगे और/या अगले आदेश होने तक, जो भी पहले हो, इंडियन ओवरसीज बैंक के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा. सं. 9/24/2006-बीओ-I]

जी. बी. सिंह, उप-सचिव

New Delhi, the 4th June, 2007

S. O. 1711.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, in consultation with the Reserve Bank of India, hereby appoints Shri S.A. Bhat (DoB : 20-10-1950) presently Executive Director, UCO Bank as Chairman & Managing Director, Indian Overseas Bank from the date of his taking charge of the post and up to 31st October, 2010 i.e. the date of his superannuation and/or until further orders, whichever is earlier.

[F.No. 9/24/2006-BO-I]

G.B. SINGH, Dy. Secy.

नई दिल्ली, 4 जून, 2007

का.आ. 1712.—राष्ट्रीयकृत बैंक (प्रबंधन एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से श्री एस. सुन्दरराजन (जन्म तिथि—15-03-1950) इंडियन बैंक के कार्यपालक निदेशक को उनके पदभार ग्रहण करने की तारीख से और 31-3-2010 तक अर्थात् जब वे अधिवर्षिता की आयु पूरी करेंगे और/या आगले आदेश होने तक, जो भी पहले हो, इंडियन बैंक के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा. सं. 9/24/2006-बीओ-I]

जी. बी. सिंह, उप-सचिव

New Delhi, the 4th June, 2007

S. O. 1712.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, in consultation with the Reserve Bank of India, hereby appoints Shri M.S. Sunderarajan (DoB : 15-03-1950) Executive Director, Indian Bank as Chairman & Managing Director, Indian Bank from the date of taking over charge and upto 31-03-2010 i.e. the date of his superannuation and/or until further orders, whichever is earlier.

[F.No. 9/24/2006-BO-I]

G.B. SINGH, Dy. Secy.

नई दिल्ली, 4 जून, 2007

का.आ. 1713.—राष्ट्रीयकृत बैंक (प्रबंधन एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से श्री टी. एस. नारायणसामी (जन्म तिथि—18-05-1949) इंडियन ओवरसीज बैंक के अध्यक्ष एवं प्रबंध निदेशक को उनके पदभार ग्रहण करने की तारीख से 31-5-2009 तक, अर्थात् जब वे अधिवर्षिता की आयु पूरी करेंगे या अगले आदेश होने तक, जो भी पहले हो, बैंक आफ इंडिया के अध्यक्ष एवं प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा. सं. 9/24/2006-बीओ-I]

जी. बी. सिंह, उप-सचिव

New Delhi, the 4th June, 2007

S. O. 1713.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, in consultation with the Reserve Bank of India, hereby appoints Shri T.S. Narayansami (DoB : 18-05-1949) Chairman & Managing Director, Indian Overseas Bank as Chairman & Managing Director, Bank of India from the date of taking over charge and upto 31-05-2009 i.e. the date of his superannuation and/or until further orders, whichever is earlier.

[F.No. 9/24/2006-BO-I]

G.B. SINGH, Dy. Secy.

नई दिल्ली, 6 जून, 2007

का.आ. 1714.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से, केनरा बैंक के महाप्रबंधक श्री टी.वाई. प्रभु (जन्म तिथि : 30-12-1950) को उनके पदभार ग्रहण करने की तारीख से और अगले आदेश होने तक या उनकी अधिवर्षिता की आयु, अर्थात् 31 दिसम्बर, 2010 तक, जो भी पहले हो, 22050-500-24050 रु. के वेतनमान में यूनियन बैंक ऑफ इंडिया के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है।

[फा. सं. 9/21/2006-बीओ-1]

जी. बी. सिंह, उपसचिव

New Delhi, the 6th June, 2007

S. O. 1714.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3, sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri T.Y. Prabhu, (DoB : 30-12-1950) General Manager, Canara Bank, as a whole time director (designated as Executive Director) Union Bank of India in the pay scale of Rs. 22050-500-24050 from the date of his taking over charge of the post and until further orders or till the date of his superannuation i.e. up to 31st December, 2010 whichever is earlier.

[F.No. 9/21/2006-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 6 जून, 2007

का.आ. 1715.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से, केनरा बैंक के महाप्रबंधक श्री एलबर्ट टारुरो (जन्म तिथि : 11-03-1951) को उनके पदभार ग्रहण करने की तारीख से और अगले आदेश होने तक या उनकी अधिवर्षिता की आयु, अर्थात् 31 मार्च, 2011 तक, जो भी पहले हो, 22050-500-24050 रु. के वेतनमान में सेन्ट्रल बैंक ऑफ इंडिया के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है।

[फा. सं. 9/21/2006-बीओ-1]

जी. बी. सिंह, उपसचिव

New Delhi, the 6th June, 2007

S. O. 1715.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3, sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Albert Tauro, (DoB : 11-3-1951) General Manager, Canara Bank, as a whole time director (designated as Executive Director) Central Bank of India in the pay scale of Rs. 22050-500-24050 from the date of his taking over charge of the post and until further orders or till the date of his superannuation i.e. up to 31st March, 2011 whichever is earlier.

[F.No. 9/21/2006-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 6 जून, 2007

का.आ. 1716.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से, ओरियंटल बैंक ऑफ कामर्स के महाप्रबंधक श्री ए. सुब्रमण्यन (जन्म तिथि : 3-6-1949) को उनके पदभार ग्रहण करने की तारीख से और अगले आदेश होने तक या उनकी अधिवर्षिता की आयु, अर्थात् 30 जून, 2009 तक, जो भी पहले हो, 22050-500-24050 के वेतनमान में इंडियन बैंक के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है।

[फा. सं. 9/21/2006-बीओ-1]

जी. बी. सिंह, उपसचिव

New Delhi, the 6th June, 2007

S. O. 1716.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3, sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri A. Subramanian, (DoB : 3-6-1949) General Manager, Oriental Bank of Commerce, as a whole time Director (designated as Executive Director) Indian Bank in the pay scale of Rs. 22050-500-24050 from the date of his taking over charge of the post and until further orders or till the date of his superannuation i.e. up to 30th June, 2009 whichever is earlier.

[F.No. 9/21/2006-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 6 जून, 2007

का.आ. 1717.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से पंजाब नेशनल बैंक के महाप्रबंधक श्री डी. एल. रावल (जन्म तिथि : 8-10-1951) को उनके पदभार ग्रहण करने की तारीख से और अगले आदेश होने तक या उनकी अधिवर्षिता की आयु, अर्थात् 31 अक्टूबर, 2011 तक, जो भी पहले हो, 22050-500-24050 रु. के वेतनमान में केनरा बैंक के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है।

[फा. सं. 9/21/2006-बीओ-1]

जी. बी. सिंह, उपसचिव

New Delhi, the 6th June, 2007

S. O. 1717.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3, sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri D. L. Rawal, (DoB : 8-10-1951) General Manager, Punjab National Bank, as a whole time Director (designated as Executive Director) Canara Bank in the pay scale of Rs. 22050-500-24050 from the date of his taking over charge of the post and until further orders or till the date of his superannuation i.e. up to 31st October, 2011 whichever is earlier.

[F.No. 9/21/2006-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 6 जून, 2007

का.आ. 1718.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से बैंक ऑफ बड़ौदा के महाप्रबंधक श्री ए. डी. पारुलकर (जन्म तिथि : 10-12-1950) को उनके पदभार ग्रहण करने की तारीख से और अगले आदेश होने तक या उनकी अधिवर्षिता की आयु, अर्थात् 31 दिसम्बर, 2010 तक, जो भी पहले हो, 22050-500-24050 रु. के वेतनमान में बैंक ऑफ इंडिया के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है।

[फा. सं. 9/21/2006-बीओ-1]

जी. बी. सिंह, उपसचिव

New Delhi, the 6th June, 2007

S. O. 1718.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3, sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri A. D. Parulkar, (DoB : 10-12-1950) General Manager, Bank of Baroda, as a whole time Director (designated as Executive Director) Bank of India in the pay scale of Rs. 22050-500-24050 from the date of his taking over charge of the post and until further orders or till the date of his superannuation i.e. up to 31st December, 2010 whichever is earlier.

[F.No. 9/21/2006-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 6 जून, 2007

का.आ. 1719.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम, 1970/1980 के खण्ड 3 के उपखण्ड (1) और खण्ड 8 के उपखण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से, बैंक ऑफ इंडिया के महाप्रबंधक श्री सतीश चंद्र गुप्ता (जन्म तिथि : 26-2-1950) को उनके पदभार ग्रहण करने की तारीख से और अगले आदेश होने तक या उनकी अधिवर्षिता की आयु, अर्थात् 28 फरवरी, 2010 तक, जो भी पहले हो, 22050-500-24050 रु. के वेतनमान में बैंक ऑफ बड़ौदा के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है।

[फा. सं. 9/21/2006-बीओ-1]

जी. बी. सिंह, उपसचिव

New Delhi, the 6th June, 2007

S. O. 1719.—In exercise of the powers conferred by clause (a) of sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3, sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Satish Chander Gupta, (DoB : 26-2-1950) General Manager, Bank of India, as a whole time Director (designated as Executive Director) Bank of Baroda in the pay scale of Rs. 22050-500-24050 from the date of his taking over charge of the post and until further orders or till the date of his superannuation i.e. up to 28th February, 2010 whichever is earlier.

[F.No. 9/21/2006-BO-I]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 6 जून, 2007

का.आ. 1720.—राष्ट्रीयकृत बैंक (प्रबन्ध एवं प्रकीर्ण उपबन्ध) स्कीम, 1970/1980 के खण्ड 3 के उप-खण्ड (1) और खण्ड 8 के उप-खण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से, यूनियन बैंक आफ इंडिया के महाप्रबंधक श्री वी.के. ढींगरा (जन्म तिथि: 14-4-1950) को उनके पदभार ग्रहण करने की तारीख से और अगले आदेश होने तक या उनकी अधिवर्षिता की आयु, अर्थात् 30 अप्रैल, 2010 तक, जो भी पहले हो, 22050-500-24050 रु. के वेतनमान में यूको बैंक के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है।

[फा. सं. 9/21/2006-बीओ-I]

जी. बी. सिंह, उपसचिव

New Delhi, the 6th June, 2007

S.O. 1720.—In exercise of the powers conferred by clause (a) of Sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980, read with sub-clause (1) of clause 3, sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India hereby appoints Shri V.K. Dhingra, (DoB : 14-4-1950) General Manager, Union Bank of India, as a whole time director (designated as Executive Director) UCO Bank in the pay scale of Rs. 22050-500-24050 from the date of his taking over charge of the post and until further orders or till the date of his superannuation i.e. up to 30th April, 2010 whichever is earlier.

[F. No. 9/21/2006-BO. I]

G.B. SINGH, Dy. Secy.

नई दिल्ली, 6 जून, 2007

का.आ. 1721.—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबन्ध) स्कीम, 1970/1980 के खण्ड 3 के उप-खण्ड (1) और खण्ड 8 के उप-खण्ड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन एवं अंतरण) अधिनियम, 1970/1980 की धारा 9 की उपधारा 3 के खण्ड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, भारतीय रिजर्व बैंक के परामर्श से इंडियन बैंक के महाप्रबंधक श्री जगमोहन गर्ग (जन्म तिथि : 26-7-1950) को उनके पदभार ग्रहण करने की तारीख से और अगले आदेश होने तक, या उनकी अधिवर्षिता की आयु, अर्थात् 31 जुलाई, 2010 तक, जो भी पहले हो, 22050-500-24050 के वेतनमान में पंजाब नेशनल बैंक के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है।

[फा. सं. 9/21/2006-बीओ-I]

जी. बी. सिंह, उपसचिव

New Delhi, the 6th June, 2007

S.O. 1721.—In exercise of the powers conferred by clause (a) of Sub-section (3) of Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970/1980 read with sub-clause (1) of clause 3, sub-clause (1) of clause 8 of the Nationalized Banks (Management and Miscellaneous Provisions) Scheme, 1970/1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Jag Mohan Garg, (DoB : 26-7-1950) General Manager, Indian Bank as a whole time director (designated as Executive Director) Punjab National Bank in the pay scale of Rs. 22050-500-24050 from the date of his taking over charge of the post and until further orders or till the date of his superannuation i.e. up to 31st July, 2010 whichever is earlier.

[F.No. 9/21/2006-BO-I]

G.B. SINGH, Dy. Secy.

विदेश मंत्रालय

(सी. पी. बी. प्रभाग)

नई दिल्ली, 25 मई, 2007

का.आ. 1722.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का राजदूतावास, मस्कत में श्रीमति ओम कौर, सहायक को 25-5-2007 से सहायक कौंसली अधिकारी का कार्य करने हेतु प्राधिकृत करती है।

[सं टी-4330/01/2006]

प्रीतम लाल, अवर सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(C.P.V. Division)

New Delhi, the 25th May, 2007

S.O. 1722.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Smt. Om Kaur, Assistant in the Embassy of India, Muscat to perform the duties of Assistant Consular Officer with effect from 25th May, 2007.

[No. T. 4330/01/2006]

PRITAM LAL, Under Secy. (Cons.)

नई दिल्ली, 25 मई, 2007

का.आ. 1723.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का राजदूतावास, ह्यूस्टन में श्री परमजीत सिंह सहायक को 25-5-2007 से सहायक कौंसली अधिकारी का कार्य करने हेतु प्राधिकृत करती है।

[सं. टी-4330/01/2006]

प्रीतम लाल, अवर सचिव (कौंसुलर)

New Delhi, the 25th May, 2007

S. O. 1723.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Smt. Parmjit Singh, Assistant in the Consulate General of India, Houston to perform the duties of Assistant Consular Officer with effect from 25th May, 2007.

[No. T. 4330/01/2006]

PRITAM LAL, Under Secy.

नई दिल्ली, 29 मई, 2007

का.आ. 1724.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम, 1948 (1948 का 41वां) को धारा 2 की अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का राजदूतावास, क्वाला लामपुर में श्री एम. पी. मुरलीधरन और कुमारी सुमन लता ऐबरोल, दोनों सहायकों को 29-5-2007 से सहायक कौंसली अधिकारी का कार्य करने हेतु प्राधिकृत करती है।

[सं. टी-4330/01/2006]

प्रीतम लाल, अवर सचिव (कौंसुलर)

New Delhi, the 29th May, 2007

S. O. 1724.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorise following officers in the High Commission of India, Kuala Lumpur to perform the duties of Assistant Consular Officer with effect from 29-5-2007.

1. Shri M.P. Muralidharan, Assistant

2. Ms. Suman Lata Abrol, Assistant

[No. T. 4330/01/2006]

PRITAM LAL, Under Secy. (Cons.)

पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय

(पोत-परिवहन-विभाग)

(स्थापना-II अनुभाग)

नई दिल्ली, 16 अप्रैल, 2007

का.आ. 1725.—फाइल सं. एच-11020/2/2005.—स्थापना के अंतर्गत जारी किए गए दिनांक 11 अक्टूबर, 2005 के का.आ. सं. 1484 (अ.) में आंशिक आशोधन करके और फाइल सं. I-35019/3/2006-सूचना का अधिकार के अंतर्गत जारी किए गए दिनांक 19 अप्रैल, 2006 और 31 अक्टूबर, 2006 के उत्तरवर्ती आशोधन तथा सूचना के अधिकार अधिनियम, 2005 (वर्ष, 2005 के अधिनियम सं. 22) की धारा 5 की उपधारा (1) के अनुसरण में, पोत परिवहन, सड़क परिवहन और राजमार्ग मंत्रालय, पोत परिवहन विभाग (मुख्यालय), एतद्वारा, निम्नलिखित अधिकारियों को नामोद्घिष्ट करता है:-

(i) श्री एम. के. त्रेहन और श्री पी. के. श्रीवास्तव के स्थान पर श्री राजीव कुमार, उप सचिव (पत्तन सामान्य, समन्वय और संसद), दूरभाष सं.-23716619 कमरा सं. 412, परिवहन भवन, नई दिल्ली-110001 को महापत्तन न्यासों, अंडमान-लक्षद्वीप-बंदरगाह-निर्माण-कार्य और महापत्तन-प्रशुल्क-प्राधिकरण तथा समन्वय-प्रभाग से संबंधित सभी मामलों के संबंध में केन्द्रीय लोक-सूचना-अधिकारी के रूप में।

(ii) श्री राजीव कुमार, उप सचिव के स्थान पर श्री एम. के. त्रेहन, उप सचिव (प्रशासन), दूरभाष सं. 23710220, कमरा सं. 527, परिवहन भवन, नई दिल्ली-110001 को पोत-परिवहन-विभाग के मुख्यालय के अधिकारियों और कर्मचारियों के प्रशासनिक पहलुओं से संबंधित सभी मामलों के संबंध में केन्द्रीय लोक-सूचना-अधिकारी के रूप में।

[फा. सं. I-35019/3/2006-सूचना का अधिकार]

सुभाष चन्द, अवर सचिव

MINISTRY OF SHIPPING, ROAD TRANSPORT AND HIGHWAYS

(Department of Shipping)

(Estt. II Section)

New Delhi, the 16th April, 2007

S. O. 1725.—In Partial modification of S.O. 1484 (E) dated 11th October, 2005 issued under File No. H-11020/2/2005-Estt. and subsequent modification dated 19th April and 31st October 2006 issued under File No. I. 35019/3/2006-RTI and in pursuance of Sub-section (1) of Section 5 of the Right to Information Act, 2005 (22 of 2005), the Department of Shipping (Headquarters), Ministry of Shipping, Road Transport and Highways hereby designate,

(i) Shri Rajeev Kumar, Deputy Secretary (PG, Coord and Parl) [Tel No. 23716619] (Room No. 412), Transport Bhavan, New Delhi-110001 as Central Public Information Officer (CPIO) for all matters concerning Major Ports, Andaman Lakshadweep Harbour Works and Tariff Authority for Major Ports and Coordination Division in place of Shri M.K. Trehan and Shri P.K. Srivastava respectively.

(ii) Shri M.K. Trahan, Deputy Secretary (Admn) [Tel No. 2371220] (Room No. 527), Transport Bhavan, New Delhi-110001 as Central Public Information Officer (CPIO) for all matters concerning Administrative aspects of the Officers and Staff of the Headquarters of the Department of Shipping in place of Shri Rajeev Kumar, Deputy Secretary.

[F. No. I-35019/3/2006-RTI]

SUBHASH CHAND, Under Secy.

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

नई दिल्ली, 30 मई, 2007

का.आ. 1726.—केन्द्रीय सरकार दन्त चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय दन्त चिकित्सा परिषद् से परामर्श करके उक्त अधिनियम की अनुसूची के भाग-I में निम्नलिखित संशोधन करती है ; अर्थात् :—

2. अनुसूची के भाग-I में क्रम सं. 65 के बाद निम्नलिखित क्रम संख्या तथा प्रविष्टियां अंतः स्थापित की जाएंगी, अर्थात्:—

“66. पदमश्री डा. डी.वाई. पाटिल
सम विश्वविद्यालय,
नवी मुम्बई, महाराष्ट्र

1. पदमश्री डा. डी.वाई. पाटिल डेंटल
कालेज एवं अस्पताल, नेरूल, नवी
मुम्बई, महाराष्ट्र

मास्टर ऑफ डेंटल सर्जरी

(i) ओरल एवं मैक्सिलोफेशियल
सर्जरी

(यदि 14-12-2005 को या इसके
बाद प्रदान की गई हो)

एम डी एस (ओरल सर्जरी)
पदमश्री डा. डी.वाई. पाटिल
सम विश्वविद्यालय, नवी मुम्बई,
महाराष्ट्र

(ii) प्रोस्थोडॉन्टिक्स

(यदि 14-12-2005 को या इसके
बाद प्रदान की गई हो)

एम डी एस (प्रोस्थोडॉन्टिक्स)
पदमश्री डा. डी.वाई. पाटिल
सम विश्वविद्यालय, नवी मुम्बई,
महाराष्ट्र

(iii) कंजरवेटिव डेंटिस्ट्री

(यदि 14-12-2005 को या इसके
बाद प्रदान की गई हो)

एम डी एस (कंजरवेटिव डेंटिस्ट्री)
पदमश्री डा. डी.वाई. पाटिल
सम विश्वविद्यालय, नवी मुम्बई,
महाराष्ट्र

(iv) पेरियोडॉन्टिक्स

(यदि 14-12-2005 को या इसके
बाद प्रदान की गई हो)

एम डी एस (पेरियोडॉन्टिक्स)
पदमश्री डा. डी.वाई. पाटिल
सम विश्वविद्यालय, नवी मुम्बई,
महाराष्ट्र

(v) आर्थोडॉन्टिक्स

(यदि 14-12-2005 को या इसके
बाद प्रदान की गई हो)

एम डी एस (आर्थोडॉन्टिक्स)
पदमश्री डा. डी.वाई. पाटिल
सम विश्वविद्यालय, नवी मुम्बई,
महाराष्ट्र ।”

[फा. सं. वी. 12017/14/99-डीई]

राज सिंह, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 30th May, 2007

S.O. 1726.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In Part-I of the Schedule after serial No. 65, the following serial number and entries shall be inserted, namely :—

"66. Padmashree Dr. D. Y. Patil
Deemed University, Navi
Mumbai, Maharashtra

1. Padmashree Dr. D. Y. Patil Dental
College & Hospital, Nerul, Navi Mumbai,
Maharashtra

Master of Dental Surgery

- | | |
|---------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------|
| (i) Oral & Maxillofacial
Surgery
(When granted on or after
14-12-2005) | MDS (Oral Surgery)
Padmashree Dr. D. Y. Patil
Deemed University, Navi
Mumbai, Maharashtra |
| (ii) Prosthodontics
(When granted on or after
14-12-2005) | MDS (Prosthodontics)
Padmashree Dr. D. Y. Patil
Deemed University, Navi
Mumbai, Maharashtra |
| (iii) Conservative Dentistry
(When granted on or after
14-12-2005) | MDS (Con. Dentistry)
Padmashree Dr. D. Y. Patil
Deemed University, Navi
Mumbai, Maharashtra |
| (iv) Periodontics
(When granted on or after
14-12-2005) | MDS (Periodontics)
Padmashree Dr. D. Y. Patil
Deemed University, Navi
Mumbai, Maharashtra |
| (v) Orthodontics
(When granted on or after
14-12-2005) | MDS (Orthodontics)
Padmashree Dr. D. Y. Patil
Deemed University, Navi
Mumbai, Maharashtra |

[F. No. V-12017/14/99-DE]

RAJ SINGH, Under Secy.

नई दिल्ली, 30 मई, 2007

का.आ. 1727.—केन्द्रीय सरकार दन्त चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय दन्त चिकित्सा परिषद् से परामर्श करके उक्त अधिनियम की अनुसूची के भाग-I में एतद्वारा निम्नलिखित संशोधन करती है; अर्थात् :—

2. राजीव गांधी यूनिवर्सिटी आफ हेल्थ साइंसेज (आरपीयूओएचएस) बंगलौर के संबंध में दन्त चिकित्सक अधिनियम 1948 (1948 का 16) की अनुसूची के भाग-I में क्रम सं. 49 के सामने कालम 2 तथा 3 की मौजूदा प्रविष्टियों में निम्नलिखित दन्त चिकित्सा कालेजों के संबंध में निम्नलिखित प्रविष्टियां अंतःस्थापित की जाएंगी:—

XIII आक्सफोर्ड डेंटल सर्जरी, बंगलौर

मास्टर आफ डेंटल सर्जरी

- | | |
|------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| (i) प्रिवेंटिव एंड कम्युनिटी डेंटिस्ट्री
(यदि 10-10-2006 को या उसके बाद प्रदान
की गई हो) | एमडीएस (कम्युनिटी डेंटिस्ट्री)
राजीव गांधी यूनिवर्सिटी आफ हेल्थ साइंसेज,
बंगलौर |
| (ii) ओरल सर्जरी
(यदि 10-10-2006 को या उसके बाद प्रदान
की गई हो) | एमडीएस (ओरल सर्जरी)
राजीव गांधी यूनिवर्सिटी आफ हेल्थ साइंसेज,
बंगलौर |
| (iii) प्रोस्थोडॉन्टिक्स
(यदि 14-10-2006 को या उसके बाद प्रदान
की गई हो) | एमडीएस (प्रोस्थो.)
राजीव गांधी यूनिवर्सिटी आफ हेल्थ साइंसेज,
बंगलौर |

(iv) पेरियोडॉन्टिक्स (यदि 10-10-2006 को या उसके बाद प्रदान की गई हो)	एमडीएस (पेरियोडॉन्टिक्स) राजीव गांधी यूनिवर्सिटी आफ हेल्थ साइंसेज, बंगलौर
(v) कन्जरवेटिव डेंटिस्ट्री (यदि 10-10-2006 को या उसके बाद प्रदान की गई हो)	एमडीएस (कन्जरवेटिव डेंटिस्ट्री) राजीव गांधी यूनिवर्सिटी आफ हेल्थ साइंसेज, बंगलौर
(vi) आर्थोडॉन्टिक्स (यदि 14-10-2006 को या उसके बाद प्रदान की गई हो)	एमडीएस (आर्थोडॉन्टिक्स) राजीव गांधी यूनिवर्सिटी आफ हेल्थ साइंसेज, बंगलौर
(vii) पेडोडॉन्टिक्स (यदि 10-10-2006 को या उसके बाद प्रदान की गई हो)	एमडीएस (पेडोडॉन्टिक्स) राजीव गांधी यूनिवर्सिटी आफ हेल्थ साइंसेज, बंगलौर
(viii) ओरल मेडिसिन (यदि 7-10-2006 को या उसके बाद प्रदान की गई हो)	एमडीएस (ओरल मेडिसिन) राजीव गांधी यूनिवर्सिटी आफ हेल्थ साइंसेज, बंगलौर
(ix) ओरल पैथोलॉजी (यदि 10-10-2006 को या उसके बाद प्रदान की गई हो)	एमडीएस (ओरल पैथोलॉजी) राजीव गांधी यूनिवर्सिटी आफ हेल्थ साइंसेज, बंगलौर

[सं. बी. 12017/59/2002-पीएमएस (डीई) (बाल्यूस-II)]

राज सिंह, अवर सचिव

New Delhi, the 30th May, 2007

S.O. 1727.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In the existing entries of column 2 & 3 against Serial No. 49, in part-I of the Schedule to the Dentists Act, 1948 (16 of 1948) pertaining to Rajiv Gandhi University of Health Sciences (RGUOHS), Bangalore, the following entries in respect of following dental college shall be inserted thereunder :—

XIII. Oxford Dental College, Bangalore**Master of Dental Surgery**

(i) Preventive & Community Dentistry (When granted on or after 10-10-2006)	MDS (Community Dentistry) RGUOHS, Bangalore.
(ii) Oral Surgery (When granted on or after 10-10-2006)	MDS (Oral Surgery) RGUOHS, Bangalore.
(iii) Prosthodontics (When granted on or after 14-10-2006)	MDS (Prosthodontics) RGUOHS, Bangalore.
(iv) Periodontics (When granted on or after 10-10-2006)	MDS (Periodontics) RGUOHS, Bangalore.
(v) Conservative Dentistry (When granted on or after 10-10-2006)	MDS (Conservative Dentistry) RGUOHS, Bangalore.
(vi) Orthodontics (When granted on or after 14-10-2006)	MDS (Orthodontics) RGUOHS, Bangalore.
(vii) Pedodontics (When granted on or after 10-10-2006)	MDS (Pedodontics) RGUOHS, Bangalore.

- | | | |
|--------|---------------------------------------------------------|--------------------------------------------|
| (viii) | Oral Medicine
(When granted on or after 7-10-2006) | MDS (Oral Medicine)
RGUOHS, Bangalore. |
| (ix) | Oral Pathology
(When granted on or after 10-10-2006) | MDS (Oral Pathology)
RGUOHS, Bangalore. |

[No. V-12017/59/2002-PMS(DE)(Vol. II)]

RAJ SINGH, Under Secy.

नई दिल्ली, 30 मई, 2007

का.आ. 1728.—केन्द्रीय सरकार दन्त चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 10 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय दन्त चिकित्सा परिषद् से परामर्श करके उक्त अधिनियम की अनुसूची के भाग-I में निम्नलिखित संशोधन करती है; अर्थात् :-

2. अनुसूची के भाग-I में क्रम सं. 66 और इससे संबंधित प्रविष्टियों के बाद निम्नलिखित क्रमांक और प्रविष्टियां रखी जाएंगी, नामतः:

- "67. विनायक मिशन रिसर्च फाउंडेशन 1. विनायक मिशन शंकराचार्य डेंटल कालेज,
(सम विश्वविद्यालय), सलेम, तमिलनाडु
सलेम, तमिलनाडु

मास्टर आफ डेंटल सर्जरी

- | | |
|-------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|
| (i) ओरल सर्जरी
(जब 20-5-2006 को अथवा
इसके बाद प्रदान की गई हो) | एम डी एस (ओरल सर्जरी)
विनायक मिशन रिसर्च फाउंडेशन
(सम विश्वविद्यालय),
सलेम, तमिलनाडु |
| (ii) ओरल पैथोलोजी
(जब 11-5-2006 को अथवा
इसके बाद प्रदान की गई हो) | एम डी एस (ओरल पैथोलोजी)
विनायक मिशन रिसर्च फाउंडेशन
(सम विश्वविद्यालय),
सलेम, तमिलनाडु |

[फा. सं. वी. 12017/19/97-डी ई]

राज सिंह, अवर सचिव

New Delhi, the 30th May, 2007

S.O. 1728.—In exercise of the powers conferred by sub-section (2) of Section 10 of the Dentists Act, 1948 (16 of 1948), the Central Government, after consultation with Dental Council of India, hereby, makes the following amendments in Part-I of the Schedule to the said Act, namely :—

2. In part-I of the Schedule after serial No. 66, the following serial number and entries shall be inserted, namely :—

- "67. Vinayaka Mission's Research Deemed University, Navi Mumbai, Maharashtra 1. Vinayaka Mission's Sankarachariyar Dental College, Salem, Tamil Nadu

Master of Dental Surgery

- | | |
|----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| (i) Oral Surgery
(When granted on or after
11-5-2006) | MDS (Oral Surgery)
Vinayaka Mission's Research
Foundation (Deemed
University), Salem, Tamil Nadu |
| (ii) Oral Pathology
(When granted on or after
20-5-2006) | MDS (Oral Pathology)
Vinayaka Mission's Research
Foundation (Deemed
University), Salem, Tamil Nadu |

[F.No. V-12017/19/97-DE]

RAJ SINGH, Under Secy.

नई दिल्ली, 30 मई, 2007

का.आ. 1729.—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद्, 1956 (1956 का 102) की धारा 11 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के बाद, उक्त अधिनियम की प्रथम अनुसूची में एतद्वारा निम्नलिखित संशोधन करती है; अर्थात् :—

‘मान्यताप्राप्त चिकित्सा अर्हता’ [कॉलम (2) में] और ‘पंजीकरण के लिए संक्षेपण’ [कॉलम (3) में] के अंतर्गत “विक्रम विश्वविद्यालय, उज्जैन” के सामने उक्त प्रथम अनुसूची में निम्नलिखित शामिल किया जायेगा, नामतः :—

(2)	(3)
बैचलर ऑफ मेडिसिन एंड बैचलर ऑफ सर्जरी	एम.बी.बी.एस. (रक्षमनी बेन दीपचन्द गरदी मेडिकल कालेज, उज्जैन के छात्रों के संबंध में यह तभी एक मान्यताप्राप्त चिकित्सा अर्हता होगी जब यह विक्रम विश्वविद्यालय, उज्जैन, मध्य प्रदेश द्वारा अप्रैल, 2006 को या उसके बाद प्रदान की गई हो)।

[सं. यू.-12012/31/2000-एमई (पी-II)]

एस. के. मिश्रा, अवर सचिव

New Delhi, the 30th May, 2007

S.O. 1729.—In exercise of the powers conferred by sub-section (2) of the Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said First Schedule against “Vikram University, Ujjain” under the heading ‘Recognized Medical Qualification’ [in column (2)] and under the heading ‘Abbreviation for Registration’ [in column (3)], the following shall be inserted, namely :—

(2)	(3)
Bachelor of Medicine and Bachelor of Surgery	M.B.B.S. (This shall be a recognized medical qualification when granted by Vikram University, Ujjain, Madhya Pradesh on or after April, 2006 in respect of students of Ruxmaniben Deepchand Gardi Medical College, Ujjain).

[No. U.-12012/31/2000-ME (P-II)]

S. K. MISHRA, Under Secy.

सूचना और प्रसारण मंत्रालय

आदेश

नई दिल्ली, 24 मई, 2007

का.आ.1730.—राष्ट्रपति, केंद्रीय सिविल सेवा (वर्गीकरण, नियंत्रण और अपील) नियमावली, 1965 के नियम 29 के उप-नियम (vi) और नियम 24 के उप-नियम (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा यह विनिर्देश देते हैं कि श्री बी.एस. लाली, मुख्य कार्यकारी अधिकारी, प्रसार भारती, नई दिल्ली, दूरदर्शन महानिदेशक का पद नियमित आधार पर भरे जाने तक दूरदर्शन महानिदेशक के अधिकार क्षेत्र में आने वाली सामान्य केंद्रीय सेवा के समूह ‘ग’ और ‘घ’ कर्मचारियों के लिए तदर्थ अपीलीय प्राधिकारी के रूप में कार्य करेंगे।

[सं. विविध 1/12/2006-सतर्कता]

राष्ट्रपति के नाम और आदेश से,

ए. डी. राय, अवर सचिव

MINISTRY OF INFORMATION AND
BROADCASTING
ORDER

New Delhi, the 24th May, 2007

S.O. 1730.—In exercise of the powers conferred by sub-rule (1) of rule 24 and sub-rule (vi) of rule 29 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965, the President hereby specifies that Shri B.S. Lalli, Chief Executive Officer, Prasar Bharati, New Delhi, shall act as ad-hoc Appellate Authority in respect of Group ‘C’ and ‘D’ employees of General Central Service falling in the jurisdiction of Director General, Doordarshan, till the post of Director General, Doordarshan is filled up on regular basis.

[No. Misc. 1/12/2006-Vlg.]

By Order and in the Name of the President,

A. D. ROY, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 4 जून, 2007

का.आ. 1731.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/ किये गये हैं :

अनुसूची

क्रम संशोधित भारतीय मानक सं. की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)
1 आईएस 4923 : 1997 खोखले इस्पात के खंड संरचनात्मक प्रयोग के लिए—विशिष्ट (दूसरा पुनरीक्षण)	संशोधन संख्या 19-4-2007 2 मई, 2005	

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह ज़फर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमटीडी 19/टी-30]

डॉ. (श्रीमती) स्नेह भाटला, वैज्ञानिक-एफ एवं प्रमुख (एमटीडी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 4th June, 2007

S.O. 1731.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies 'e' that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No. and year of the No. Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)
1 IS 4923 : 1997 Hollow steel sections for structural use—Specification (second revision)	Amendment No. 2 May, 2005	19 April, 2007

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur

Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : MTD 19/T-30]

DR. (Mrs.) SNEH BHATLA, Sc-'F' & Head (MTD)

नई दिल्ली, 5 जून, 2007

का.आ. 1732.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संशोधित भारतीय मानक सं. (कों) की संख्या और शीर्षक	नये भारतीय मानक मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, कोई हो, की संख्या और वर्ष
(1)	(2)
1 आईएस 4989 : 2006 आग बुझाने के लिए यांत्रिक झाग बनाने का झाग सांद्र-विशिष्ट (तीसरा पुनरीक्षण)	आई एस 4989 1 जून, 2007 (भाग 1) : 1985 आई एस 4989 (भाग 2) : 1984 आई एस 4989 (भाग 3) : 1987

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो मानक भवन, 9 बहादुर शाह ज़फर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों, नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों, अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञ. 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 5th June, 2007

S.O. 1732.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No. and year of the No. Indian Standards Established	No. & year of Indian Standards, if any, Superseded by the New Indian Standards	Date of Established
(1)	(2)	(3)
1 IS 4989 : 2006 Foam Concentrate for Producing Mechanical Foam for Fire Fighting-Specification (Third Revision)	IS 4989 (Part 1) : 1985 IS 4989 (Part 2) : 1984 IS 4989 (Part 3) : 1987	1 June, 2007

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Sc-'F' & Head (Civil Engg.)

नई दिल्ली, 6 जून, 2007

का.आ. 1733.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम सं. संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)
1 आईएस 1261 : 1959 मृदु इस्पात में सीवन वेल्डिंग की रीति सहित	संशोधन संख्या 1 अप्रैल, 2007	30-04-2007

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो मानक भवन 9 बहादुर शाह ज़फर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमटीडी 12/टी-27]

डॉ. (श्रीमती) स्नेह भाटला, वैज्ञानिक-'एफ' एवं प्रमुख (एम्पीडी)

New Delhi, the 6th June, 2007

S.O. 1733.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies 'e' that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued

SCHEDULE

Sl. No. and year of the No. Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)
1 IS 1261 : 1959 Code of practice for seam welding in mild steel	Amendment No. 1 April, 2007	30 April, 2007

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: MTD 12/T-27]

DR. (Mrs.) SNEHBHATLA, Sc-'F' & Head (MTD)

नई दिल्ली, 6 जून, 2007

का.आ. 1734.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं।

अनुसूची

क्रम सं. संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)
1 आईएस 9524 : एल्यु-मिनो-थर्मिक प्रक्रिया द्वारा इस्पात घटकों की मरम्मत वेल्डिंग की अनुशंसित रीति विधि	संशोधन संख्या 1 अप्रैल, 2007	30-04-2007

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो मानक भवन 9 बहादुर शाह ज़ाफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमटीडी 12/टी-5]

डॉ. (श्रीमती) स्नेह भाटला, वैज्ञानिक-‘एफ एव’ प्रमुख (एमटीडी)

New Delhi, the 6th June, 2007

S.O. 1734.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies ‘e’ that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued

SCHEDULE

Sl. No. and year of the No. Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect	
(1)	(2)	(3)	(4)
1 IS 9524 : 1980 Recommended procedure for repair welding of steel components by aluminothermic process	Amenment No. 1 April, 2007	30 April, 2007	

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : MTD 12/T-5]

DR. (Mrs.) SNEH BHATLA, Sc-‘F’ & Head (MTD)

नई दिल्ली, 5 जून, 2007

का. भा. 1735.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988, के विनियम 4 के उप विनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं को लाइसेंस प्रदान किए गए हैं :

अनुसूची

क्रम सं.	लाइसेंस सं.	वैधता तिथि	पार्टी का नाम एवं पता (कारखाना)	उत्पाद	आई एस सं./भाग/खण्ड वर्ष
1.	7728893	3-4-2008	फोनिक्स इण्डस्ट्रीज, सेक्शन 24, मिलिटरी टैंक के सामने, उल्हासनगर, जिला थाने-421003	अनुप्रस्थ जुड़ें हुए पॉलीइथालीन विद्युतरोधी पी वी सी आवरित केबल (भाग 1) 1100 वोल्ट और सहित की कार्यकारी वोल्टता के लिए	भामा 7098 : (भाग 1) : 1988
2.	7727285	2-4-2008	बी आर इन्टरप्राइसेस, गाला सं. 9/25, पारेख इण्डस्ट्रीयल इस्टेट, वी एस मार्ग विरार (पूर्व), जिला थाने-401303	विद्युत-प्रयोजनों के लिए दाब सुग्राही आसंजक टेप-भाग 3: अलग-अलग सामग्री की अपेक्षाएं अनुभाग 1 नान थर्मो सेटिंग सुग्राही सहित प्लास्टिक पी वी सी टेप	भामा 7809 : (भाग 3/ अनुभाग 1) : 1986

[सं. के.प्र.वि./13:11]

ए. के. तलवार, उप-महानिदेशक (मुहर)

New Delhi, the 5th June, 2007

S.O. 1735.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given below in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Validity Date	Name and Address (factory) of the Party	Product	IS No./Part/Sec./Year
1.	7728893	3-4-2008	Phoniex Industries Section 24, Opp. Military Tank Ulhas-Nagar Dist. Thane-421003	Crosslinked polyethylene insulated PWC sheathed cables : Part 1 for working voltage upto and including 1100V	7098 : Part 1 : 1988
2.	7727285	2-4-2008	B.R. Enerprises Gala No. 9/25, Parekh Industrial Estate, V. S. Marg, Virar (E) Distt. Thane-401303	Specification for Pressure Sensitive Adhesive Insulating tapes for Electrical Purposes- Part 3 : requirements for Individual Materials-Section 1 : Plasticized Polyvinylchloride tapes with Non-thermosetting Adhesive	7809 : Part 3 : Sec 1 : 1986

[No. CMD/13 : 11]

A. K. TALWAR, DDGM

नई दिल्ली, 6 जून, 2007

का. आ. 1736.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उप विनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं को लाइसेंस प्रदान किए गए हैं :

अनुसूची

क्रम सं.	लाइसेंस सं.	वैधता तिथि	पार्टी का नाम एवं पता (कारखाना)	उत्पाद	आई एस सं./भाग/खण्ड वर्ष
1	2	3	4	5	6
1.	5315555	8 मार्च, 2008	मैसर्स टी. डी. एक्वा प्राइवेट लिमिटेड पो. आ. व ग्राम-मानिकपारा, बंद प्राकृतिक खनिज पानी के पु. स्टे झारग्राम-721513, मेदिनिपुर, अलाबा) पेट बोटल और जार में पश्चिम बंगाल	पैकेज बंद पीने का पानी (पैकेज बंद प्राकृतिक खनिज पानी के अलावा) पेट जार में	आई एस 14543 : 2004
2.	5315656	11 मार्च, 2008	मैसर्स लोकनाथ एक्वा इंडस्ट्रीज ग्राम-रामचन्द्रपुर, पो.आ. नरेन्द्रपुर, पु. स्टे सोनारपुर-700103, दक्षिण-24 परगना, पश्चिम बंगाल	पैकेज बंद पीने का पानी (पैकेज बंद प्राकृतिक खनिज पानी के अलावा) पेट जार में	आई एस 14543 : 2004
3.	5328867	8 अप्रैल, 2008	मैसर्स प्रतिम पालिमर्स प्राइवेट लिमिटेड, 94/1 शंतिराम रास्ता बाली, हावड़ा, पश्चिम बंगाल	गैस मेंस, जल मेंस और मल बल के पाइप के लिए रबड़ सीलिंग रिंग	आई एस 5382 : 1985

1	2	3	4	5	6
4.	5321853	14 मार्च, 2008	मैसर्स साज फूड प्रोडक्ट्स प्राईवेट लिमिटेड, जे.एल. नं. 02 (जाला-धुलागोरी पंचायत) मौजा : जालाधुलागोरी, मार्ग से.-आन्दुलमोरी, पो. आ. धुलागढ़-711302, पु. स्टे. सांकराइल, हावड़ा, पश्चिम बंगाल	बिस्कुट	आई एस 1011 : 2002
5.	5327057	2 अप्रैल, 2008	मैसर्स वेस्ट बंगाल फार्मास्यूटिकल एंड फाइटो केमिकल डेवलपमेंट कॉर्पोरेशन लिमिटेड, ब्लॉक-ए, फेज-III, कल्याणी, नदिया-741235, पश्चिम बंगाल	ग्लिसरील मानोस्टिरेट खाद्य ग्रेड	आई एस 9953 : 1981

[सं. के.प्र.वि./13:11]

ए. के. तलवार, उप-महानिदेशक (मुहर)

New Delhi, the 6th June, 2007

S.O. 1736.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licence, particulars of which are given below in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Validity Date	Name and Address (factory) of the Party	Product	IS No./Part/Sec/Year
1.	5315555	08 March, 2008	M/s. T. D. Acqua Pvt. Ltd. P. O. & Vill, Manikpara, P. S. Bargram Medinipur-721513, West Bengal	Packaged drinking water (other than packaged natural mineral water)	14543:2004
2.	5315656	11 March, 2008	M/s. Lokenath Aqua Industries Vill. Ramchandrapur P.O. Narendrapur P.S. Sonarpur, South-24-Parganas West Bengal-700103	Packaged drinking water (other than packaged natural mineral water)	14543:2004
3.	5328867	8 April, 2008	M/s. Pratim Polymers Pvt. Ltd., 94/1, Santiram Rasta, Bally, Howrah, West Bengal.	Rubber Sealing rings for Gas Mains, Water Mains and Sewers.	5382:1985
4.	5321853	14 March, 2008	M/s. Saj Food Products Pvt. Ltd., JL No. 02 (Jaladhulagori Panchayet) Mouja-Jaladhulagori, Via-Andul Mouri P.O. Dhuylagarh P. S. Sankrail, Howrah-711302, West Bengal	Biscuits	1011:2002
5.	5327057	2 April, 2008	M/s. West Bengal Pharmaceutical & Phytochemical Development Corp. Ltd., Block-A, Phase-III, Kalyani, Nadia-741235, West Bengal.	Glyceryl Monostearate, Food Grade,	9953:1981

[No. CMD/13:11]

A. K. TALWAR, Dy. Director General (Marks)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 31 मई, 2007

का.अ. 1737.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि आंध्र प्रदेश राज्य में आर.ओ.यु. पाइप लाइन बोडालारेवु जी.सी.एस. से के.पी.ऐ.सी. तक पेट्रोलियम के लिये पाइप लाइन-वेल्ड तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों के बिछाने के प्रयोजन के लिये एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज खनन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप संबंधी प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग राजामोन्दि एसस्ट/के. जी. बेसिन, ओ.एन.जी.सी गोदावरी भवन, राजामोन्दि, आंध्र प्रदेश अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से या किसी विधि व्यवसायी की मार्फत।

अनुसूची

आर.ओ.यु. पाइप लाइन : बोडालारेवु जी.सी.एस. से के.पी.ऐ.सी.

राज्य	आंध्र प्रदेश	मंडल	अल्लवाराम		
जिले	पूर्व गोदावरी	गांव	बोडालारेवु		
आर.एस. नं.	हेक्टेयर्स	एर्स	सेन्टेयर्स	एकड़	सेन्ट्स
948/1ap	0	18	5	0	46
938/1ap	0	05	0	0	12
938/1c	0	09	0	0	22
938/1d	0	11	5	0	295
939/1b	0	21	5	0	525
938/2bp	0	05	5	0	13
938/2bp	0	05	0	0	125
938/2bp	0	05	5	0	13
939/2c	0	14	5	0	36
939/2bp	0	20	0	0	49
939/2c	0	15	0	0	37
940/1b	0	08	5	0	21
940/1c	0	17	0	0	42

आर.एस. नं.	हेक्टेयर्स	एर्स	सेन्टेयर्स	एकड़	सेन्ट्स
940/2b	0	13	0	0	32
940/2c	0	12	0	0	30
941/2	0	02	0	0	05
941/3	0	23	0	0	57
942/1(GP)	0	31	0	0	77
1030/1(GP)	0	19	5	0	48
1029/p (GP)	0	23	5	0	58
1008(GP)	0	17	5	0	43
1009(GP)	0	23	0	0	57
1011(GP)	0	28	5	0	70
597/2(GP)	0	07	5	0	19
Total	9	56	5	8	815

राज्य	आंध्र प्रदेश	मंडल	अल्लवाराम		
जिले	पूर्व गोदावरी	गांव	कोमारागिरिपटनम		
आर.एस. नं.	हेक्टेयर्स	एर्स	सेन्टेयर्स	एकड़	सेन्ट्स
618/2(GP)	0	17	0	0	42
599/1a	0	01	0	0	025
599/2a	0	03	0	0	07
599/2bp	0	04	0	0	10
598/1p	0	01	0	0	02
Total	0	25	5	0	635

[ख.-ओ-12016/71/2006-ओ.एन.जी.-III]

श्री प्रकाश, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 31st May, 2007

S.O. 1737.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from "ODALAREVU GCS TO KPAC" in the A. P. State, pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And whereas it appear that for the purpose of laying such pipeline, it is necessary to acquire the right of user in the land described in the schedule annexed hereto :—

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd., Rajahmundry Asset/K.G., Basin, Godavari Bhavan, Base Complex, Rajahmundry, Andhra Pradesh,

And every person making such any objections shall also state specifically whether he wishes to be heard in person or by a legal Practitioner.

SCHEDULE

ROU PIPELINE FROM ODALAREVU GCS TO KPAC

State	Andhra Pradesh			Mandal		Allavaram
Distt.	East Godavari		Village	Odalarevu		
R.S.No.	Hectares	Ares	Centi- ares	Acres	Cents	
1	2	3	4	5	6	
948/1ap	0	18	5	0	46	
938/1ap	0	05	0	0	12	
938/1c	0	09	0	0	22	
938/1d	0	11	5	0	295	
939/1b	0	21	5	0	525	
938/2bp	0	05	5	0	13	
938/2bp	0	05	0	0	125	
938/2bp	0	05	5	0	13	
939/2c	0	14	5	0	36	
939/2bp	0	20	0	0	49	
939/2c	0	15	0	0	37	
940/1b	0	08	5	0	21	
940/1c	0	17	0	0	42	
940/2b	0	13	0	0	32	
940/2c	0	12	0	0	30	
941/2	0	02	0	0	05	
941/3	0	23	0	0	57	
942/1 (GP)	0	31	0	0	77	
1030/1 (GP)	0	19	5	0	48	
1029/p (GP)	0	23	5	0	58	
1008 (GP)	0	17	5	0	43	
1009 (GP)	0	23	0	0	57	
1011 (GP)	0	28	5	0	70	
597/2 (GP)	0	07	5	0	19	
Total	3	56	0	8	815	

State	Andhra Pradesh	Mandal	Allavaram		
Distt.	East Godavari	Village	Komaragiri- patnam		
R.S.No.	Hectares	Ares	Centi Acres	Cents	
618/2(GP)	0	17	0	0	42
599/1a	0	01	0	0	025
599/2a	0	03	0	0	07
599/2bp	0	04	0	0	10
598/1p	0	01	0	0	02
Total	0	25	5	0	635

[No. O-12016/71/2006-ONG-III]

SHRI PRAKASH, Under Secy.

नई दिल्ली, 14 जून, 2007

का.आ. 1738.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खण्ड (क) के अनुसरण में, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.आ. 3503 दिनांक 26 सितम्बर, 2005 का अधिकांश करते हुए सिवाय उन बातों के जो ऐसे अधिकरण से पूर्व की गई है या करने का लोप किया गया है, श्री अरविन्द खरे, महाप्रबंधक, जिला व्यापार व उद्योग केन्द्र खरगौन (मध्य प्रदेश) जो भारत पेट्रोलियम कॉर्पोरेशन लिमिटेड (बीपीसीएल) में प्रतिनियुक्ति पर काम कर रहे हैं, उनको अपने कार्यभार के साथ-साथ भारत ओमान रिफाइनरीज लिमिटेड की सेन्दल इंडिया रिफाइनरी परियोजना से संबंधित वाडीनार (गुजरात) से बीना (मध्य प्रदेश) तक की देशव्यापी क्रूड पाइपलाइन के लिए सक्षम प्राधिकारी के कृत्यों का निर्वहन करने के लिए, उक्त अधिनियम के अधीन मध्य प्रदेश राज्य के राज्यक्षेत्र के भीतर, प्राधिकृत करती है।

[फाइल सं. 31015/1/2007-ओ आर- II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 14th June, 2007

S. O. 1738.—In pursuance of Clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of user in Land) Act, 1962 (50 of 1962) and in supersession of the Ministry of Petroleum and Natural Gas, Government of India No. S. O. 3503 dated the 26th September, 2005, except as respect things done or omitted to be done before such supersession, the Central Government hereby authorises Shri Arvind Khare, G. M., District Trade and Industry Centre, Khargon (Madhya Pradesh), on deputation to Bharat Petroleum Corporation Limited (BPCL), to perform the functions of the Competent Authority, in addition to his own duties, under the said Act, within the territory of State of Madhya Pradesh for the cross country crude pipeline from Vadinar (Gujarat) to Bina (Madhya Pradesh) of Bharat Oman Refineries Limited's Central India Refinery Project.

[F. No.-31015/1/2007-OR-III]

A. GOSWAMI, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 17 मई, 2007

का.आ. 1739.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल डेयरी रिसर्च इंस्टीट्यूट के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं.-I, चण्डीगढ़ के पंचाट (संदर्भ संख्या 163/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्राप्त हुआ था।

[सं. एल-42012/104/2003-आई आर (सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 17th May, 2007

S.O. 1739.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 163/2004) of the Central Government Industrial Tribunal-cum-Labour Court No. I, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of National Dairy Research Institute and their workmen, which was received by the Central Government on 17-05-2007.

[No. L-42012/104/2003-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE**BEFORE SHRI RAJESH KUMAR, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1, CHANDIGARH**

Case No. I D. 163/2004

Shri Kamaljit Singh S/o Sh. Prem Singh, Village and P. O. Gogripur, Karnal. ... Applicant

Versus

The Director, National Dairy Research Institute, Karnal. ... Respondent

APPEARANCES:

For the Workman : None

For the Management : Shri R. K. Sharma

AWARD

(Passed on 30th April, 2007)

Central Government vide notification No. L-42012/104/2003 (CM-II) dated 24-3-2004 has referred the following dispute to this Tribunal for adjudicator :

"Whether the action of the management of National Dairy Research Institute, Karnal, in terminating the services of Shri Kamaljit Singh S/o Sh. Prem Singh Attender, w.e.f. August 1998 is legal and justified? If not, to what relief the workman is entitled?"

2. None has put up appearance on behalf of the workman despite notice. For the last three dates his advocate is also not appearing. AR of the management submitted that workman appears to be not interested as he is not appearing for his evidence. It appears that workman is gainfully employed some where and for this reason he is not persuing his case. In view of the above since the workmen is not appearing for his evidence and his advocate is also not appearing the present reference is returned to the Central Govt. for want of prosecution Central Govt. be informed. File be consigned to record.

Chandigarh RAJESH KUMAR, Presiding Officer
Dated the 30-4-2007

नई दिल्ली, 17 मई, 2007

का.आ. 1740.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 611/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्राप्त हुआ था।

[सं. एल-22012/297/2001-आई आर (सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th May, 2007

S.O. 1740.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 611/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure in the Industrial Dispute between the management of Food Corporation of India and their workmen, which was received by the Central Government on 17-05-2007.

[No. L-22012/297/2001-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH**

Shri Kuldeep Singh, Presiding Officer

Case No. I D. 611/2005

Registered on 24-8-2005

Date of Decision 14-3-2007

Mohinder Kumar S/o Shri Manohar Lal, R/o W. D. 168, Ali Mohalla Kalan, Jullundur. ... Petitioner

Versus

District Manager, FCI,
86 Rani Ka Bagh, Amritsar.

... Respondent

APPEARANCES:

For the Workman : Sh. Mohinder Singh

For the Management : Mr. N. K. Zakhmi,
Advocate.

AWARD

This is a reference under Section 10 of the I. D. Act, 1947, hereinafter to be referred as, "Act" received from Government of India, Ministry of Labour, New Delhi vide their order No. L-22012/297/2001-JR (CM-II) dated 25th July, 2002. The reference reads as under :

"Whether the action of the Management of Food Corporation of India in removing/terminating Shri Mohinder Kumar S/o Late Shri Manohar Lal, Stitcher from services w.e.f. 5th May, 1980 is legal and justified ? If not, to what relief he is entitled to ?"

On a notice from the Tribunal the parties appeared, the workman in person and the Management through Counsel. The workman filed his Claim Petition whereby he has claimed that he had joined the service with the Management on 22nd July, 1969 as Stitcher and was confirmed on the said post after the completion of the probation period of one year vide order No. A/14(31/70) dated 4th September, 1970 and was promoted as Assistant Grade-III, on his improving qualification but he was reverted back to the post of Class-IV vide order dated 20th February, 1978. He challenged the demotion, by way of suite, and the Court held that the demotion of the workman was legal since the institution which had issued the matriculation certificate in his favour was not a recognized institution; that the Management admitted that the institute in question was registered with the Registrars of the Company, New Delhi and, therefore, they were wrong in removing him from service vide their order dated 5th May, 1980.

The further claim of the workman is that the Management terminated his services without waiting for the outcome of the appeal and without serving upon him any charge sheet or holding department inquiry. That the appeal preferred by him was also dismissed on 2nd March, 1981, but he was informed of it only on 18th November, 1988. He has prayed for his reinstatement in service.

The Management has opposed the claim of the workman. Their preliminary objections to the maintainability of the reference are that this Tribunal does not have jurisdiction to consider the matter as the workman was removed from service for his misconduct, duly proved in the Civil Courts. Admitting that the workman had joined the service on 22nd July, 1969 as Stitcher; and he was promoted as AG-III against the 10% quota, meant for Class IV matriculates, but stated that on inquiry it was found that the workman had produced a fake matriculation certificate so as to get the promotion. Therefore, he was demoted to the original post. The workman challenged the

order of demotion in the Civil Courts but he failed both in the Trial Court and in the appeal. The Management thereupon was of the opinion that the workman has committed misconduct on unbecoming of a FCI employee, therefore, his retention in service was taken to be undesirable. He was, therefore, removed from Service vide order dated 5th May, 1980. His appeal was also rejected on the basis of the material on record. The other preliminary objection is that the reference is bad for laches being highly belated as the workman was removed from service on 5th May, 1980 and his appeal was rejected on 7th March, 1981 and the demand notice has been raised in the year 2002 i.e. after 20 years. According to them the reference is also bad for non-joinder and mis-joinder of the parties. On merit it is their reply that the averments made in para 1 to 5 are correct except that the workman had produced the matriculation certificate of a non recognized institute and the examination conducted by said institution was also not recognized. Reiterating the facts stated in the preliminary objections, it is stated by the Management that the Management had removed the workman by taking disciplinary action against him. They denied that the workman was punished twice. Their further claim is that the workman was removed from service by a competent authority in terms of Regulation 63 read with regulation 54 of FCI Staff Regulation, 1971. They admitted that on the request of the workman he was again informed about the dismissal of his appeal vide letter dated 18th November, 1988 and was told that his appeal was dismissed on 2nd August, 1991.

The workman appeared as a witness and proved his affidavit exhibit W-1. In cross examination he admitted that he has submitted his matriculation certificate to the Management on the basis of which he was promoted as AG-III and was reverted back to Class-IV post on the ground that he had submitted a false certificate. He further admitted that, by a notification of CBSE, Government of India, the Central Board of Higher Education, New Delhi was declared as a Private Institution; and that examination conducted by that body was not recognized by Government of India. He further admitted that he had filed a suit the Court of Sub-Judge, Amritsar in which it was held that the certificate issued in his favour was not valid. In the appeal the order of Sub-Judge was upheld. He further stated that he had taken permission for appearing in the matriculation examination in the year 1976 and was declared pass in the year 1977. He denied that he had absented from duty for appearing in the examination. He claimed that the Management had not charge sheeted him for being absent from duty and that the Management had removed him from the service without justification and since then he is without any work.

The Management produced Shri Sanjeev Bhaskar as their witness who by his statement proved his affidavit M-3 and the documents Exhibits M-4 to M-12. In cross-examination he admitted that the workman was confirmed

in service on 4th September, 1970 giving effect to his confirmation from 22nd July, 1970. He further admitted that the workman was promoted on 11th June, 1977 and his services were terminated on 5th May, 1980. He denied the knowledge that a colleague of the workman Ram Rattan also produced similar certificate and was promoted but no action was taken against him by the Management. He admitted that no show cause notice or chargesheet was served upon the workman before terminating his services nor any inquiry was held against him. According to him the action against Ram Rattan was not taken as the matter had not come to the Management earlier. He claimed that memo dated 25th April, 1979 was given to the workman.

The Management also produced Shri Manohar Singh as their witness, but the workman was not given chance to cross examine him, therefore, his statement cannot be considered in the proceedings.

From the pleadings of the parties it is clear that the parties have no dispute about the facts that the workman was engaged by the Management on 22nd July, 1969, as Stitcher and he was promoted as AG-III w.e.f. 11th June, 1977, on the basis of his having passed the matriculation examination. It is also admitted by them that the workman was demoted after it came to the notice of the Management that the workman had submitted the matriculation certificate from a board which was not recognized by the Government of India. Thereafter, he was removed from service on the basis that a civil court has held that the certificate produced by the workman was a fake one and the Management took that as a misconduct on the part of the workman. The witness of the Management Sanjeev Bhaskar admitted that no show cause notice was issued, no inquiry was held nor the workman was chargesheeted before the termination of his services. He admitted that the workman was a confirmed employee of the Management right from the day he joined the service as a Stitcher. Thus I find that the Management not only violated the provisions of the Industrial Dispute Act, also did not care for but the principles of natural justice, as he was removed from service without giving him any opportunity to reply and submit his explanation with regard to the misconduct alleged against him. It is claimed by them that since the civil courts of Sub Judge and District Judge, Amritsar had held the workman having tendered a fake certificate, therefore, there was no necessity to give show cause notice to the workman or chargesheet him or to hold the inquiry against him as the facts alleged and made basis for his removal were admitted facts. In my opinion this submission of the Management is without any merit. The law and the principle of natural justice demand that nobody should be condemned upon heard and in this case, the workman has been condemned without hearing him.

If we go into the judgement of Sardar Baldev Singh, Sub Judge, Amritsar and that of the AA, Shri N. C. Khichi, Additional Judge, Amritsar, I find that the learned Sub

Judge, in his judgement nowhere held that the matriculation certificate tendered by the workman was a fake one. While considering issue no. 6, the learned judge held that "the certificate of the workman was found to have been issued by the Central Board of Higher Education, New Delhi, which was not a recognized Government Institution". This certificate was not issued by the CBSE, New Delhi which was a recognized institution, the demotion order was passed as the plaintiff was found to have not passed the matriculation certificate. The Ministry of Education has already notified that the Central Board of Higher Education was not a recognized institution. Thus we find the learned Sub Judge did not hold that the workman had produced a fake or forged certificate. He nowhere held that there was no board with the name Central Board of Higher Education, New Delhi or that the workman never appeared in the matriculation examination for him or that somebody else had appeared in the examination or that he obtained a forged certificate, without ever having studied for matriculation examination or having appeared in the examination in the year 1976. The non-recognition of the institution, from which the workman obtained matriculation certificate, could not be said to be the fault of the workman nor he could be branded to have obtained a fake certificate. Day in and day out, we read in the newspapers that such and such institution was not a recognized institution to hold examination for 10th or other classes but that does not mean no such institution existed or the candidates who appeared through that institution did not attend the classes or appeared in the exams. Moreover, it is not only the CBSE, which recognizes the institution and authorizes them to conduct courses for matriculation and then send the students for taking exams of 10th Class. Almost every State of the country has its own board of Secondary School Education and they also give recognition for 10th and 12th Classes. So mere showing that the workman had passed the examination of 10th from an institution which was not a recognized by the Government of India was not sufficient to declare the certificate tendered by the workman as fake. It has come on record that the said institution was operating right from 1956 and was registered with the Registrar of Companies, New Delhi under Firms and Societies Act. The Government of India issued the notification declaring that institution not a recognized institution in the year 1965. The workman though was presumed to be in the knowledge of that but it may be that he did not have that knowledge. He was, therefore, entitled for an opportunity to show that he had no knowledge of such a notification or that the institution from which he had passed the matriculation examination was recognized by any other board, if not by CBSE.

I find that the learned District Judge while upholding the judgement of Sub Judge stepped further, without giving any reasons, to hold in para 8 of his judgment "the certificate produced before the department was not issued by any

recognized institution. This clearly shows that he committed a fraud and misrepresentation on the dependent by producing fictitious certificate". The learned judge did not show as to what evidence he found on file to come to that conclusion. The facts, as are admitted nowhere show that he had produced a fictitious certificate as there has come no evidence to show that the certificate produced by the workman was not of Central Board of Higher Education, New Delhi or it was not signed by a competent officer of that institution or that the workman had not at all appeared in the examination or that somebody else had appeared in the examination for him. It is a different matter as to what was the value of that certificate. We find that in the field of Higher Education, the courses conducted even by the Government institutions like MDs/MS in certain states, are not recognized courses by the Medical Council of India. But that does not render the degree obtained by the candidates from those colleges as fictitious. The recognition is accorded by the competent authority on the fulfilment of required formalities by the institution, but if the formalities are not fulfilled, the degrees awarded by the institutions or the universities, do not become fictitious. It is a fact that MS and MD degrees given by certain universities in USSR are not recognized by Medical Council of India, but those degrees hold good in the UK and other countries. The basing of removal of the workman on the judgments of the Trial and Appellate Court, without providing the workman an opportunity to explain his position, was therefore bad in law. I further find that the punishment awarded to the workman was also disproportionate to the misconduct alleged against him but not proved in a domestic inquiry. There is no evidence brought on record to show that the conduct of the workman even on earlier occasions was such. Since the certificate produced by the workman was found to be not valid, so his demotion may be justified but his removal on that basis was not justified as he possessed the qualification to be a Stitcher and after evaluating his work the Management had confirmed him on that post. Both the punishments were awarded to the workman without hearing him. For that reason also the punishment awarded were bad in law.

The Management had taken the plea that the reference is not maintainable for delay and laches. According to them the workman was removed from service from 5th May, 1980 and his appeal was disposed of on 25th February/2nd March, 1983 whereas the workman raised the demand notice in the year 2002, therefore, he has come to claim the benefit after a period of 20 years. As against to it the workman has claimed that against the order of his removal he had filed an appeal but the Management did not convey him the result of the appeal and he waited for that. It was only on 18th November, 1998, he came to know that his appeal was dismissed on 2nd March, 1981. Against this claim of the workman the Management has failed to produce any evidence to show that the result of appeal

was conveyed to the workman much earlier than 18th November, 1998. In para 15 of their Written Statement, on merit, they admitted that the workman was informed about the result of his appeal vide letter dated 18th November, 1988, a fact claimed by the workman. On record I do not find any evidence to show that earlier to November, 1988 the workman had the knowledge of dismissal of his appeal. Thus the plea of laches, and delay raised by the Management is without any merit especially in view of the violation of principles of natural justice, rules law done by the Management.

In view of the discussion made above I set aside the order of termination of the workman passed on 5th May, 1980, by the Management. He is treated to be in service as if there was no order of termination of his service. He is entitled to all the service benefits except the back wages for the period till the date he raised the demand notice in the year 2002 as it cannot be denied that he too slept over the matter for long and did not try to know the result of the appeal he had made. No efforts are shown to have been made by him to ask the Management to tell him the result of his appeal. Moreover, how could he survive and provide livelihood to his family without working. He will be entitled to 50% of the back wages only from 9th December, 2002 when the Management first appeared in this Tribunal and got the notice of the reference. The reference is answered in favour of the workman holding that he is entitled to the relief shown above. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer.

नई दिल्ली, 17 मई, 2007

का.आ. 1741.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, जबलपुर, के पंचाट (संदर्भ संख्या 8/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्राप्त हुआ था।

[सं. एल-22012/65/2001-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th May, 2007

S.O. 1741.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 8/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the Management of Mohan Colliery of WCL and their workmen, which was received by the Central Government on 17-05-2007.

[No. L-22012/65/2001-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/8/02

Shri C. M. Singh, Presiding Officer

The General Secretary,
 R. K. K. M. S. (INTUC),
 P. O. Chandametta,
 Chhindwara

... Workman/Union

Versus

The General Manager,
 WCL, Pench Area,
 P. O. Parasia,
 Distt. Chhindwara (M. P.),
 Chhindwara

... Management

AWARD

Passed on this 8th day of May, 2007

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/65/2001-IR (CM-II) dated 21-12-2001 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the Sub Area Manager, Shivpuri Sub Area of WCL, P. O. Parasia, Distt. Chhindwara (MP) in terminating the services of Shri Mehtab Vishwakarma, S/o Kundan, D. P. R. of Vishnupuri Mine No. 2 of WCL, Pench Area, P. O. Parasia, Distt. Chhindwara w.e.f. 23-1-1999 is legal and justified ? If not, to what relief he is entitled to ?"

2. In spite of sufficient service of notice on workman/Union, no body put in appearance on behalf of workman/Union. Therefore vide order dated 5-8-05, the reference proceeded ex parte against workman/Union.

3. The management filed their Written Statement. Their case in brief is as follows. That workman Shri Mehtab Vishwakarma was initially appointed as Departmental Piece Rated Worker and was posted at Vishnupuri underground in mines. He was a habitual absentee. The workman did not show any interest in his services and he again remained absent from duty unauthorisedly without any information, permission and sanctioned leave. The attendance particulars of the workman for the period w.e.f. 1995 to 1998 are given below :

	Year	Attendance
1.	1995	43 days
2.	1996	14 days
3.	1997	Nil
4.	1998	27 days

The workman remained absent from duty from 2-3-98 unauthorisedly without intimation, permission and sanctioned leave. He did not report sick to colliery hospital. He was, therefore, issued with a chargesheet dated 15/21-6-98 under clause 26.30 of the Certified Standing Orders. The workman submitted reply to the said chargesheet. The reply was found not satisfactory and it was decided to conduct a departmental enquiry against him. Accordingly vide order No. 113 dated 30-10-98, Shri G. C. Pandey, the then Personnel Manager was appointed Enquiry Officer and Shri Anish Ahamad the then Assistant Manager was appointed as Management Representative. The Enquiry Officer fixed the first date of sitting of enquiry on 10-11-98 and issued memorandum of enquiry dated 1-11-98. That on the said date of enquiry, the workman did not turn up. Accordingly the enquiry proceedings were adjourned to 16-11-98. That for the said date of hearing, a memorandum of enquiry dated 10-11-98 was issued to the workman by Registered Post. That the workman refused to receive the said notice and the same was received back by the sender with the Postal remarks as "Refused to accept". As the workman refused to accept the memorandum of enquiry, the Enquiry Officer proceeded ex parte against the workman on 16-11-98 and the enquiry was conducted in his absence. After having legally and properly conducting the enquiry, the Enquiry Officer submitted Enquiry Report holding the workman guilty of the charges. The enquiry proceedings along with Enquiry Report was placed before Competent Authority and after having gone through the same the competent authority having been satisfied that the enquiry has been conducted legally and properly following the principles of natural justice issued show-cause notice dated 18-12-98 along with copy of Enquiry Report to the workman by Registered post. That the said registered envelope was received back by the management with the endorsement of the postal authority that the addressee is not traceable. The Competent Authority after having considered the entire facts and circumstances of the case, terminated the service vide order No. 102 dated 22-23/11/98. It is prayed by the management that the reference be decided in favour of the management and against the workman and the workman is not entitled to any relief whatsoever.

4. The order sheet dated 5-8-05 reveals that the reference proceeded ex parte against the workman.

5. The management in order to prove its case filed affidavit of Shri Rajesh Kumar Sinha, the then working as Sr. Personnel Officer in WCL, Pench Area.

6. As the case proceeded ex parte against the workman/Union, there is no evidence on record in favour of the workman/Union.

7. The management filed written argument in support of their case.

8. I have very carefully gone through the entire record of the case and the entire evidence on record.

9. The case of the management is fully established from the uncontroverted and unchallenged affidavit of management's witness Shri Rajesh Kumar Sinha working as Sr. Personnel Officer. Against the above, there is no evidence in support of the case of the workman/Union. The reference, therefore, deserves to be decided in favour of the management and against the workman but considering the facts and circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference.

10. The reference is decided in favour of the management and against the workman holding that the action of Sub Area Manager, Shivpuri Sub Area of WCL, P. O. Parasia, Distt. Chhindwara (MP) in terminating the services of Shri Mehtab Vishwakarma, S/o Kundan, D. P. R. of Vishnupuri Mine No. 2 of WCL, Pench Area, P. O. Parasia, Distt. Chhindwara w.e.f. 23-1-1999 is legal and justified and the workman is not entitled to any relief. The parties shall bear their own costs of this reference.

11. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मई, 2007

का.आ. 1742.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, जबलपुर, के पंचाट (संदर्भ संख्या 43/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्राप्त हुआ था।

[सं. एल-22012/304/1999-आई आर (सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th May, 2007

S.O. 1742.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of WCL and their workmen, which was received by the Central Government on 17-05-2007.

[No. L-22012/304/1999-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/43/2000

Shri C. M. Singh, Presiding Officer

The General Secretary,
R. K. K. M. S. (INTUC),
P. O. Chandameta,
Distt. Chhindwara (M. P.),
Chhindwara

... Workman/Union

Versus

The Chief General Manager,
WCL, Pench Area,
P. O. Parasia,
Distt. Chhindwara (M. P.),
Chhindwara

... Management

AWARD

Passed on this 30th day of May, 2007

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/304/99-IR (CM-II) dated 24-1-2000 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the General Manager, WCL, Pench Area, P. O. Parasia, Distt. Chhindwara (MP) in dismissing the services of Shri Pooran S/o Prahlad, Helper of Regional Workshop, WCL, Chandametta is justified ? If not, to what relief the concerned workman is entitled ?"

2. Workman Shri Pooran had been working as helper at Regional Workshop, Western Coalfields Limited, Chandametta. About a week prior to Durga Pooja and Dussehra festival, cleaning of the workshop premises begins and the old material, scraps, old and rejected electric wires, fittings etc. are placed at a place nearby wall inside the premises. This is done by the helpers. The employees used to go for answering the call of nature nearby the wall inside the premises where the old materials are placed as the urinal and lavatory were closed by the management. On 25-9-98, the celebrations of Durga Pooja were going on. The workman was on duty in the IIInd shift on that day which commenced from 3.30 P.M. to 11.30 P.M. At about 10 P.M., he went to attend the call of nature nearby the wall where the old materials were placed. When he was returning, suddenly Security Guard Shri Dilip Kumar started shouting 'Chor-Chor' and caught hold of him. The Security Guard when realised that he has wrongly caught hold of the workman and if the workman reports the matter to the higher authorities, the action will be taken against him (Security Guard). Therefore he falsely implicated the workman alleging that he was taking away certain cable from the workshop towards godown. No material was recovered by the said Security Guard from the possession of the workman. On the basis of the complaint, the workman was served with a chargesheet dated 27-9-98 alleging that on 25-9-98 at about 10 PM, the workman was found carrying cable inside the workshop towards Koyla godown and thus he committed the misconduct. The workman submitted

the reply to the chargesheet denying the charges. A departmental enquiry was held against the workman. Shri Anil Kumar Singh, Sr. Personnel Officer was appointed Inquiry Officer and Shri S. D. Malviya, Superintending Engineer was appointed representative of the management. Shri S. D. Malviya was neither witness nor he was authorized to be a witness on behalf of the management. He unfortunately and against the procedure, turned to become a witness of the management and examined himself against all cannons of law. Shri Dilip Khan, Security Guard as the witness of the management has not stated anything adverse against the workman. The material documents which were basis of enquiry were not supplied to the workman and therefore he could not cross-examine the management's witnesses effectively. After having completed the enquiry, the Inquiry Officer submitted report holding that the charges are proved. On the basis of the report, the Disciplinary Authority vide order dated 9-1-99 decided to propose the penalty of dismissal from services and in this manner the services of workman were illegally and arbitrarily dismissed vide order dated 25-1-99. The workman is not employed gainfully anywhere since his dismissal. It is prayed that the management be directed to reinstate the workman in service with full back wages.

3. The management filed Written Statement. Their case in brief is as follows. That workman Pooran was working as helper with the management at Pench Area. On 25-9-98, while he was on duty, he was caught hold of by the Security Guard for misconduct of theft. A chargesheet was issued to him. He filed his reply to the charge which was not found satisfactory. Therefore Shri Anil Kumar Singh, Sr. Personnel Officer was appointed as Inquiry Officer and Shri S. D. Malviya, Superintendent Engineer was appointed as management's representative. The Inquiry Officer conducted the DE against the workman legally and properly and vide his report dated 14-11-98 held that the charges are proved against the workman. On receipt of enquiry report, the competent authority imposed the punishment of dismissal against the workman vide order dated 25-1-99. It is pleaded that the workman is not entitled to any relief whatsoever as it is disclosed that he committed theft of management's property.

4. Vide order dated 25-5-05 on the order sheet of this reference proceeding, it was ordered that the case shall proceed ex-parte against the workman.

5. The management in order to prove its case filed affidavit of management's witness Shri S. D. Malviya, the then working as Superintendent Engineer in WCL Pench Area. As the case proceeded ex-parte against the workman, there is no evidence on record on behalf of the workman.

6. I have heard Shri A. K. Shashi, Advocate the learned counsel for the management and perused the entire evidence on record.

7. The case of the management is fully established and proved from the uncontroverted and unchallenged affidavit of Shri S. D. Malviya, the management's witness.

8. In view of the above, the reference deserves to be answered in favour of the management and against the workman but considering the facts and circumstances of the case, I am of the view that the parties should be directed to bear their own costs of this reference.

9. The reference is answered in favour of the management and against the workman holding that the action of the General Manager, WCL, Pench Area, P. O. : Parasia, Distt. Chhindwara (MP) in dismissing the services of Shri Pooran S/o Prahlaad, Helper of Regional Workshop, WCL, Chandametta is justified and consequently the concerned workman is not entitled to any relief. The parties shall bear their own costs of this reference.

10. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 17 मई, 2007

का.आ. 1743.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 208/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्राप्त हुआ था।

[सं. एल-23012/53/1998-आई आर (सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th May, 2007

S.O. 1743.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 208/2005) of the Central Government Industrial Tribunal-cum-Labour Court No.-II, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BBMB and their workmen, which was received by the Central Government on 17-05-2007.

[No. L-23012/53/1998-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case I. D. No. 208/2005

Registered on 3-8-2005

Date of Decision 28-3-2007

Balwant Singh C/o Shri R. K. Singh Parmar, Secretary,
Punjab (INTUC), House No. 35-G, Nangal Township,
District Ropar. ... Petitioner

Versus

The Chief Engineer (Generation), BBMB, Nangal Township, District Ropar. . . . Respondent

APPEARANCES:

For the Workman : Shri R. K. Singh Parmar, AR

For the Management : Shri Rajinder Singh, AR

AWARD

The parties are present through their representatives. I have heard them and have also gone through the file.

The following reference was received from Government of India vide their order No. 23012/53/98/IR (CM-II) dated 17th February, 1999 :

"Whether the action of the Management of BBMB rep. by Chief Engineer (Generation), in terminating the services of Shri Balwant Singh, S/o Molu Ram, Casual Labour w.e.f. 18th December, 1997 without following the provisions of Section 25-F of the Industrial Disputes Act, 1947 is justified? If not, to what relief the workman is entitled?"

After getting notice from this Tribunal the workman filed the claim petition and the Management their reply. The workman filed the affidavit in support of his claim whereas the Management filed the affidavit of one Himmat Singh, Divisional Superintendent in the office of Resident Engineer BBMB, Ganguwal, Punjab. They also placed on record the documents now exhibited as M-1 to M-7. Both the workman and Shri Himmat Singh, the witness of the Management appeared as witness.

Stated in brief the claim of the workman is that he was employed by the Management and he served them on daily wages from 1st November, 1996 to 31st January, 1997 and then from 23rd May, 1997 to 18th December, 1997. Thus he served them for 241 days within 12 calendar months preceding the date of termination of his services from 18th December, 1997; that the Management terminated his services without following the provisions of Section 25-F of the Industrial Dispute Act, hereinafter, to be referred as "Act". The Management denied the claim of the workman and raised the preliminary objections to the maintainability of the reference stating that the reference is bad for non-joinder of the necessary parties that since the engagement of the workman was for a specific period, therefore, his engagement got automatically ended on the expiry of the specified period. On merits, they have claimed that the workman was engaged as unskilled Mazdoor for a specified period of three months from 1st November, 1996 to 31st January, 1997. Later on he was again engaged on 23rd May, 1997 to 18th December, 1997 which period was extended for further 30 days and the same ended on 18th December, 1997. The petitioner having been engaged for a specified period does not have the claim for regularization as he was bound by the terms and conditions of the engagement orders issued by the Management. He was, therefore, also

not entitled for retrenchment compensation. In disengaging him the Management neither violated any provisions of the Act nor used unfair labour practice, therefore, the workman is not entitled to any relief.

The workman has raised his claim on the plea that since 12 months preceding the date of termination of his services on 18th December, 1997, he had served the Management continuously for 241 days, therefore, he was entitled for the protection under Section 25-F of the Act. In my opinion the workman is wrong in making this claim. If we count 12 months from 18th December, 1997 back to 19th January, 1997 the total number of days including Sundays and Holidays, come to 236 days and not 241 days as is claimed by the workman. The workman, therefore, did not have the protection of Section 25-F since he had not put in continuous service for one year as is defined by Section 25-B of the Act. In his statement he admitted that he was a daily wager and that he had served the Management continuously. In his statement of claim he gave the specific dates during which he had served the Management and by claiming that he had served the Management continuously he meant that he had served the Management from 1st November, 1996 to 31st January, 1997 and then from 23rd May, 1997 to 18th December, 1997. Nowhere he has claimed for any other period during which he had served the Management. The claim made by the workman that the Management violated the provisions of Section 25-F before terminating his services is not available to him as he did not fall within the protection of Section 25-F of the Act. His, this claim is, therefore, not valid.

The workman has also raised the claim that the Management violated the provisions of Section 25-G of the Act, since they retained his juniors in service while terminated his services. Neither in his statement of claim nor in his own statement he named his juniors who had been retained in service or who had been employed by the Management without giving him the option of re-employment. Similarly he failed to prove that the Management engaged 500 workers in their unit and, therefore, he was entitled for three months notice before the termination of his services. It is true that the witness of the Management admitted that they had employed hundred workmen in the power house during the period the workman had served them, even then this benefit is not available to the workman for the reason that he had not put in continuous service of one year on the day his services were terminated. The admission of the Management that they had employed 100 workers, thus, is of no use to the workman. There is another reason not to accept this claim of the workman as the reference made by the Government does not include in it the claim of the workman of violation of Section 25-N of the Act. For these reasons, the workman is not entitled to the relief he has claimed alleging the violation of Section 25-F, G and N of the Act.

In view of the discussion made above I am of the opinion that the workman has failed to prove his claim that the Management had violated the provisions of Section 25-F of the Act at the time they terminated his services on 18th December, 1997. The workman is, therefore, not entitled to any relief. The award is passed against him and in favour of the Management. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 17 मई, 2007

का.अ. 1744.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार एस. ई. सी. एल. के प्रबंधांत्र के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 38/1992) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्राप्त हुआ था।

[सं. एल- 2012/398/1991-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th May, 2007

S.O. 1744.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/1992) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employer in relation to the management of SECL and their workman, which was received by the Central Government on 17-05-2007.

[No. L-22012/398/1991-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/38/92

Shri C. M. Singh, Presiding Officer

Sri Mohd. Ajamuluddin,

S/o Mohd. Ilyas,

Ex-Badli Worker,

P. O. Kotma,

Vill. : Lahsui,

Distt. Shahdol

... Workman/Union

Versus

The General Manager,

Jamuna and Kotma Areas of S. E. C. Ltd.,

P. O. : Jamuna Colliery,

Distt. Shahdol

Management

AWARD

(Passed on 30th day of April, 2007)

1. The Government of India, Ministry of Labour vide its Notification No. L-22012/398/91-IR (C-II) dated 12-2-92 has referred the following dispute for adjudication by this tribunal :

“Whether the action of the General Manager, Jamuna and Kotma Areas of S. E. C. Ltd., P. O. Jamuna Colliery, Distt. Shahdol (MP) in terminating services of Mohd. Ajamuluddin, Badli workman of Govinda Colliery w.e.f. 25-2-1990 is legal and justified ? If not, to what relief is the workman entitled to ?”

2. The case of workman Shri Mohd. Ajamuluddin in brief is as follows. That he applied for the post of worker as Category-I, Mazdoor and after an interview and competition, he was selected as Category-I, Mazdoor. Thereafter he was sent for vocational training of Badli worker as Category-I Mazdoor by an order dated 18-7-1989 issued by the Dy. P. M. (I. R. J. and K. Appontt./89/428) of the management. Thereafter, his appointment was further extended for a period of 90 days by an order dated 1-9-89 (Annexure S-1). In the meantime, the management wanted to acquire the land of the father of the workman in respect of a Plot No. 938 area 4.40 acres and to this effect, an agreement was signed (Annexure S-2). Thereafter by an order dated 15-1-90, the appointment order of the workman was approved by Dy. Manager, Jamuna and Kotma Area. It is also mentioned therein that an agreement has to be signed with regard to the land and the case which was pending before the Commissioner, Rewa is to be withdrawn. Annexure S-3 is the copy of the order dated 15-1-90. On 17-1-90, the service of the workman and his appointment was approved for a further period of 30 days and he was allowed for duties and thereafter another order was issued that the service of workman was allowed for duty for a period of one week by an order dated 17-2-90. Annexures S-4 and S-5 are copies of the orders respectively. Thereafter the name of workman was struck off and he was ceased to work. That neither any enquiry was conducted against the workman nor his work was unsatisfactory. The workman was disallowed to work because of a case with regard to acquisition of land was pending before the Commissioner, Rewa and the workman did not persuade to withdraw the said case. The termination of the workman is against the provisions of standing orders. After completing 155 days, his service could not be terminated and he became a permanent workman. Other junior persons who were appointed along with the workman were retained in the service. The termination of the workman amounts to unfair labour practice. It is against the provisions of Standing Orders and against the provisions of I. D. Act, 1947. It amounts to retrenchment and it could not be done without complying with the provisions of Sec. 25-F of I. D. Act, 1947. That the workman is entitled for continuation in

service with all back wages from the date of termination of his service.

3. The management contested the reference and filed their WS. Their case in brief is as follows. Workman Shri Mohd. Ajamuluddin was appointed for a period of 90 days by order dated 18-7-89 as Badli Mazdoor on temporary basis. He was a temporary employee and his services to be automatically terminated after expiry of the period stipulated in the appointment order. This appointment was given to Shri Mohd. Ajamuluddin because certain land measuring 4.40 acre under Khasra No. 938 situated in village Lahsui, Tah. Kotma was required for mining operation. It was reported to the management that the aforesaid land belongs to one Shri Mohd. Idris and the land is under his possession. Shri Mohd. Idris requested for giving employment to his son Shri Mohd. Ajamuluddin as land outsee for taking over the aforesaid land for mining operation. Accordingly temporary appointment for 90 days was given to Shri Mohd. Ajamuluddin and he joined duty on 2-9-89. While working so, he was granted further extension of 30 days and his service was to be terminated w.e.f. 17-2-90 because in the meanwhile it was reported that the land did not belong to Shri Mohd. Idris but it actually belongs to M/s. ACC Company and Shri Mohd. Idris gave false information and that a dispute regarding the land was pending with Commissioner, Rewa wherein Shri Mohd. Idris had claimed for changing the ownership of the land in his name. All the authorities of Shahdol District have decided the dispute by holding that the land is belonging to M/s. ACC and after nationalization the management of SECL are the owners of the land. In view of the above, it is clear that the land is belonging to SECL and Shri Mohd. Idris had given a false information and the appointment of his son Shri Mohd. Ajamuluddin was not proper. However the services of Shri Mohd. Ajamuluddin were terminated as per the stipulation in the contract of service. In fact his appointment came to an automatic end on 17-2-90. His service was terminated as per stipulation in the contract of employment and he was not in employment for a period of one year also. As such termination is legal and proper and no interference is called for. The termination was as per the contract of employment. It is neither retrenchment nor any chargesheet or enquiry was necessary. The action of the management is fully justified and the workman concerned is not entitled to any relief. It has been further pleaded in the rejoinder to the Written Statement of the management that in fact the offer of appointment was given to the workman who is son of so-called owner of land measuring 4.40 acres under Khasra No. 938 situated in Village Lahsui, Tah. Kotma as land outsee for taking over the aforesaid land for mining operation. The letter marked as Annexure S-2 is nothing but with reference to certain letter informing the Dy. CME by Sub-Area Manager, Govinda Sub-Area that the agreement with Shri Mohd. Idris, father of the workman in respect of Plot No. 938 for an area of 4.40 acres

has been duly signed. In fact the order dated 15/16-1-90 which is marked as Annexure S-3 is a letter written to the workman by the GM, Jamuna and Kotma Area informing him that with reference to his order of appointment dated 18-7-89, extension of 30 days has been approved and he was advised to report for duty to the Sub-Area Manager, Govinda Sub Area. It was further informed to the workman that necessary agreement and affidavit are to be filed by the father of workman before Commissioner, Rewa in connection with the dispute of title of land pending before the Hon'ble Commissioner, Rewa. The document Annexure No. S-4 is nothing but the office order in respect of allowing the workman for duty in the light of the order dated 15/16-1-90 which is marked as Annexure No. S-3. It is pleaded by the management that the workman is not entitled to any relief.

4. Workman Shri Mohd. Ajamuluddin in order to prove his case examined himself. Against the above, in order to defend the reference, management examined Shri D. Hargave, then working as Dy. Chief Personnel Manager, SECL, Koyla Bhawan, Dhanbad (Bihar) and Shri S. K. Juneja then working as General Manager, Jamuna and Kotma Area, SECL, Bilaspur.

5. Both the parties have filed Photostat copies of certain documents which shall be referred in the body of this award where the need be.

6. I have heard Shri P. N. Pathak, Advocate the learned counsel for the workman and Shri A. K. Shashi, Advocate the learned counsel for the management. I have very carefully gone through the entire evidence on record.

7. The learned counsel for the workman submitted that the workman has continuously worked as Badli worker with the management for 195 days and therefore according to provision of Sec-25(B) of the I. D. Act, 1947, he has continuously worked with the management for a period of one year as he worked below ground in the mine. The learned counsel for the workman emphasised that the termination of workman from service amounts to his retrenchment and that is too without complying with the provisions of Sec. 25-F of the I. D. Act, 1947 and therefore it is illegal. Against the above, the learned counsel for the management submitted that the workman worked with the management only for 109 days below the ground in the mine and therefore it cannot be held that he continuously worked for one year with the management and therefore the termination of service of workman is not hit by the provisions of Sec. 25-F of the I. D. Act, 1947.

8. Now it is to be calculated that for how many days workman has continuously worked with the management as Badli worker. It has been averred in the statement of claim by the workman that after having completed 155 days, his service could not be terminated as he became a permanent workman. That his termination is against the provisions of the Standing Orders and the I. D. Act, 1947

and amounts to retrenchment which could not be done without complying with the provisions of Sec. 25-F of the I.D. Act, 1947. It means the averment of the workman is that he worked as Badli worker with the management for more than 155 days below ground in the mine. This averment of the workman has been denied by the management in their pleadings. It is admitted to both the parties that the workman was initially appointed vide order dated 18-7-89 as Badli workman for a period of 90 days and he underwent vocational training w.e.f. 26-7-89 to 16-8-89 for 22 days. It is also admitted to both the parties that after completing training, the workman joined duty on 2-9-89 and he performed his duties till 24-2-90. That his termination took place on 25-2-90. In his affidavit, the workman deposed that including the training period, he worked below ground in the mine continuously for 195 days which is as follows :

Period	Total days
a. 26-7-89 to 16-8-89	22 days
b. 2-9-89 to 16-1-90	136 days
c. 17-1-90 to 16-2-90	30 days
d. 17-2-90 to 24-2-90	07 days
Total	195 days

It is to be noted here that except the affidavit of workman, there is no independent, oral or documentary evidence to corroborate the above oral testimony of the workman given by him. It means that except the above oral evidence of workman, there is no documentary evidence for proving the fact that the workman worked with the management below the ground in the mine for 195 days continuously.

9. Against the above, the management's witnesses Shri D. Hargave, then working as Dy. Chief Personnel Manager, BCCL, Koyala Bhawan, Dhanbad (Bihar) deposed that after getting the vocational training, the workman became eligible to work below ground in mine. That any person who has undergone vocational training to become eligible for employment, that period is not counted as employment. That the workman was issued appointment letter on 1-9-89 by the then Personnel Manager and he joined on 2-9-89. This witness deposed that the following are the particulars of work done by the workman with the management :

Month	Attendance
September, 1989	24 days
October, 1989	23 days
November, 1989	26 days
December, 1989	05 days
January, 1990	17 days
February, 1990	14 days
Total	109 days

Management's other witness Shri S. K. Juneja, then working as General Manager, Jammu and Kotma Area, SECL, Bilaspur corroborated the above oral testimony of management's witness Shri D. Hargave. Both these witnesses have been cross-examined at length on behalf of workman. They have not been asked a single question during the cross-examination regarding the correctness of number of working days deposed by them. It is to be noted here that both the above witnesses in their affidavits sworn in that the copies of statutory documents required to be maintained by the management Form "B" Register, Leave Account and actual number of working days registered during the calendar year 1989 and during the calendar year 1990 are Exhibit M/7 to Ex. M/9 respectively on record. This evidence of the witnesses had not been controverted on behalf of the workman. This documentary evidence corroborates the oral testimony of management's witnesses Shri D. Hargave and Shri S. K. Juneja that the workman worked for only 109 days during the period of his employment with the management. Under the provision of Sec. 25-B of the I. D. Act, 1947, a workman shall be deemed to be in continuous service under an employer for a period of one year, if the workman, during the period of 12 calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than 190 days in the case of workman employed below ground in a mine. Thus the requirement of the provisions of the Sec. 25(B) of the I. D. Act for deeming that the workman has continuously served with the employer for a period of one year, he must have done work not less than 190 days in the case he was employed below ground in a mine and if the said requirement is complied with, only then the provisions of Sec. 25(F) of the I. D. Act, 1947 come into play. In this case, only it is proved that the workman worked with the management as Badli workman only for 109 days below ground in mine. Therefore the provision of Sec. 25(F) of the I. D. Act, 1947 are not attracted in this case.

10. It is admitted to both the parties that the workman was appointed vide order dated 18-7-89 which is Exhibit P-1/M-4 (Photostat copies of appointment letter). It is very clear from the copies of the said appointment letter that the workman was appointed as badli worker temporarily for a period of 90 days and that is too subject to medical fitness. It is also clear from the said letter that the workman would be given vocational training on production of duly attested photograph by the management. Photostat copy of letter dated 15-16/1/1990 by the General Manager, Jammu and Kotma Area to the workman (Ex. P-5/M-3) reveals that the appointment of workman was further extended for a period of 30 days. It also indicates that in the meantime agreement had to be signed and affidavit to be sworn in and the case from the court of Commissioner, Rewa is to be withdrawn. The Photostat copy of office order dated 4-9-89 Ex. P-4 reveals that the workman joined his duty w.e.f. 2-9-89. It is

also mentioned therein that the appointment of workman was for a period of 90 days and after the expiry of the aforesaid period, his appointment shall automatically stand terminated. The Photostat copy of letter dated 17-2-90 by the Sr. P. O., Govind Sub-Area to the Shift I/C, Relay R/A (Ex. P-7) clearly show that the workman was allowed to do duty from 17-2-90 to 24-2-90. Thus it is quite evident from the above documentary evidence that first of all, the workman was allowed to do duty for 90 days as temporary Badli workman. It was extended for 30 days and thereafter it was further extended for 7 days, but his appointment remained as temporary Badli workman, meaning thereby; he was appointed temporarily and it cannot be legally held that he was permanently appointed as Badli workman only because he worked with the management for 109 days below ground in mine. It is, therefore, concluded that the termination of the workman is neither hit by the provisions of Sec. 25(F) of I. D. Act, 1947 nor any clause of the standing orders.

11. The learned counsel for the management submitted that infact an offer of appointment was given to the workman who is son of the so called owner of land measuring 4.40 acres under Khasra No. 938 situated in Village Lahsui, Teh. Kotma as land oustee for taking over the aforesaid land for mining operation. But later on the management came to know that the aforesaid land actually belongs to M/s ACC Company and Shri Mohd. Idris gave a false information that a dispute regarding the land was pending with Commissioner, Rewa wherein Mohd. Idris had claimed for changing the ownership of the land his name. He emphasised that workman was terminated from service as per stipulation in the contract of employment. The same has been averred in the Written Statement and rejoinder to the Written Statement filed on behalf of management. But the above pleadings of the management have not been denied either in the statement of claim or rejoinder to the statement of claim filed on behalf of workman, rather; it has been averred in the statement of claim that the management wanted to acquire the land of the father of workman in respect of Plot No. 938 Area 4.40 acres and to this effect an agreement was signed. That thereafter by an order dated 15-1-90, the appointment order of the workman was approved by Dy. Manager, Jamuna and Kotma area that it is also mentioned therein that an agreement has to be signed with regard to the land and the case which was pending before the Commissioner, Rewa is to be withdrawn. Thus the workman did not dare to deny in his rejoinder to the statement of claim that he was given appointment because certain land measuring 4.40 acres under Khasra No. 938 situated in Village Lahsui, Teh. Kotma was required for mining operation. But in his affidavit, the workman deposed that the management's assertion that he was given employment in lieu of acquisition of his land is baseless and wrong. Since the workman has not averred the same in his statement of claim

or rejoinder to the statement of claim, now he cannot be legally permitted to lead evidence of the fact which he failed to deny in his rejoinder to the statement of claim. Against the above, management's witnesses Shri D. Hargave and Shri S. K. Juneja deposed in their affidavit that the appointment was given to workman Shri Mohd. Ajamuluddin because certain land measuring 4.40 acres under Khasra No. 938 situated in Village Lahsui, Teh. Kotma was required for mining operation. It is further deposed in their affidavits that it was reported to the management that the aforesaid land belongs to Shri Mohd. Idris and the land is under his direct possession. That Shri Mohd. Idris requested for giving employment to his son Shri Mohd. Ajamuluddin as land oustee for taking over the aforesaid land for mining operation. Both the management's witnesses have further deposed that Shri Mohd. Idris of Lahsui village requested that his land No. 938 measuring 4.40 acres in village Lahsui be acquired for mining operation and in lieu thereof Shri Mohd. Ajamuluddin, S/o Shri Mohd. Idris be provided employment against the said land. It has been further deposed by both the witnesses that accordingly workman Shri Mohd. Ajamuluddin was appointed for a further period of 30 days vide letter dated 15-16/1/90 of the General Manager, J and K Area in consideration of land of Mohd. Idris. It has also been deposed by both the witnesses of the management that the workman had submitted an application for employment (the Photostat copy of which is Ex. M-1). This Photostat copy has been duly sworn in by both the witnesses. It has been submitted on behalf of the workman that workman Shri Mohd. Ajamuluddin is son of Mohd. Illiyas and not the son of Mohd. Idris. It has been specifically submitted by the learned counsel for the workman that Mohd. Illiyas, father of workman Shri Mohd. Ajamuluddin did not make any request to the management for giving employment to this son in lieu of acquisition of his land. It is quite evident from the record that the name of workman's father is Mohd. Illiyas whereas the application has been moved for giving employment to the workman by Mohd. Idris. This peculiar position has been explained during the course of evidence of management's both the witnesses. They deposed that it may be pointed out here that the said application of Mohd. Idris for employment of workman Shri Mohd. Ajamuluddin S/o Shri Mohd. Illiyas is a very peculiar one. That in the application Shri Mohd. Idris has stated that the name of his son is Ajamuluddin, whereas at the bottom of the application, his father's name is different i.e. Mohd. Illiyas. During the course of evidence of cross examination, the workman deposed that Mohd. Idris is called "chacha" (uncle) by all, meaning thereby, everybody calls him "chacha". In the application for appointment of workman Shri Mohd. Idris has requested that his son Mohd. Ajamuluddin be given appointment for acquisition of his land as land oustee. It appears to be a natural phenomena that a person to whom everybody calls "chacha" may be calling his youngers as his "Beta" (Son). The above deposition made by both the witnesses of the

management that Shri Mohd. Idris moved an application for the employment of workman Mohd. Ajamuluddin as land oustee finds corroboration in the Photostat copy of the application which is Ext. M-1 on record. The submission that the workman's father Shri Mohd. Ilyas did not move an application for appointment of workman as land oustee has no force. Besides the above, the Photostat copy of letter dated 15/16-1-90 by the General Manager to the workman (Ex. P-5/Ex. M-3 filed by the parties) clearly indicates that the workman was given employment in lieu of acquisition of land and it is mentioned therein that the agreement has to be signed and affidavit to be sworn in court and case from the Commissioner, Rewa is to be withdrawn. This documentary evidence corroborates the oral evidence of management above two witnesses that the workman was given temporary employment as land oustee. Both the management witnesses deposed that it was reported that the land does not belong to Mohd. Idris but it actually belongs to ACC and Shri Mohd. Idris gave false information regarding his ownership and the dispute regarding the land was also pending with the Commissioner, Rewa where Shri Mohd. Idris had claimed for changing the ownership of land in his name. That in 1995, Collector Shahdol has decided the case and declared that the land under question belongs to State Government and therefore the right of Mohd. Idris is ceased on the land. The management has filed the Photostat copy of order dated 31-8-95 passed in case No. 95/Mig./94-95 in the case of Western Coal Fields Limited, Kotma Sub Area through Sub-Area Manager, WCL, Kotma area, Dist. Shahdol, MP versus Mohd. Idris. This Photostat copy of the order has been duly sworn in by both the management's witnesses in their affidavits. This documentary evidence corroborates the oral testimony of both the witnesses mentioned above.

12. It is, therefore, concluded that the workman was terminated from the services per stipulation in the Contract of employment. Both the management's witnesses further deposed in their affidavits that in the affidavit submitted by workman, he has stated that his name was sponsored by the Employment Exchange, Barhar and he was recruited after due interview, which is far from the fact. That in the case of employment of any person whose name is sponsored by the employment exchange, intimation of interview/test is sent to the employee and the State Government too. That in the case of Shri Mohd. Ajamuluddin, this is not correct. Had his name sponsored by the Employment Exchange for interview and for selection, the workman should have produced the employment exchange card and sponsored letter issued by the employment officer. That when a person is interviewed against the name sponsored by the Employment Exchange, he is issued an interview letter for appearing in the test and intimation to this is also sent to the Employment Exchange and the Collector. It has been submitted by the learned counsel for the management that since no such documents

have been filed by the workman to indicate that his name was sponsored by the Employment Exchange, Barhar, the oral testimony of the interested witness i.e. workman to the effect that he was recruited after due interview cannot be placed reliance upon. The above submission made by the learned counsel for the management has force.

13. It has been submitted by the learned counsel for the management that the workman was given employment against acquisition of land by the Government of India for mining purpose but the said land did not belong to Shri Mohd. Idris who had moved application for the employment of the workman, therefore on this ground, the workman is not entitled to claim for employment. He emphasised that a person who approaches the tribunal or the court for grant of relief must come with clean hands and in this case, the workman has not come with clean hands, rather; management has been deceived as Mohd. Idris gave false information that the land in question belonged to him and consequently the workman is not entitled to any relief.

14. After having considered every aspect of the case as discussed above, it is concluded that the action of the management in terminating the services of workman Shri Mohd. Ajamuluddin, Backli workman of Govinda colliery w.e.f. 25-2-1990 is legal and justified and he is not entitled to any relief. Having considered the facts and circumstances of the case, I am of the view that the reference deserves to be answered in favour of the management and against the workman with costs. Consequently the reference is answered in favour of the management and against the workman Shri Mohd. Ajamuluddin with costs and it is hereby held that the action of the General Manager, Jamuna and Kotma Areas of S. E. C. Ltd. PO Jamuna Colliery, Distt. Shahdol (MP) in terminating services of Mohd. Ajamuluddin, Backli workman of Govinda colliery w.e.f. 25-2-1990 is legal and justified. Consequently the workman is not entitled to any relief.

15. Copy of the award be sent to the Government of India, Ministry of Labour as per order.

C. M. SINGH, Presiding Officer

श्री दिल्ली, 17 मई, 2007

का.प्र. 1745. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार भारतीय कामगारों के प्राधिकारों के समझौते और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिनियम नं. 1, भारतीयों के पंकर (संघर्ष संख्या 27/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्रकाशित हुआ था।

[सं. एन-22012/147/1999-आई.एन. (सी-II)]

सचिव, कृष्ण संघ, सैन्य अधिकारी

New Delhi, the 17th May, 2007

नई दिल्ली, 17 मई, 2007

S.O. 1745.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 27/2002) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the employer in relation to the management of FCI and their workmen, which was received by the Central Government on 17-05-2007.

[No. L-22012/147/1999-IR(C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1, CHANDIGARH

Case I. D. No. 27/2002

Shri Hardev Singh, C/o General Secretary Trade Union Council, Patiala. ... Applicant

Versus

1. The Assistant Manager (D), FCI, Dharanokot.
2. The Senior General Manager, Food Corporation of India, Regional Office, Punjab, Sector-34, Chandigarh. ... Respondents

APPEARANCES:

For the Workman : Shri H. S. Bath, Advocate.

For the Management : Shri N. K. Zakhrai Advocate.

AWARD

(Passed on 29-3-2007)

Central Govt. vide notification No. L-22012/147/99-IR (C. II) dated 15-12-2003 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Food Corporation of India, in terminating the services of Shri Hardev Singh son of Mohan Singh on 9-4-99 is legal and justified? If not, to what relief he is entitled to?”

2. The case is taken up in Lok Adalat at the request of the parties. The authorized representative of the workman Shri H. S. Bath Advocate filed an application to take up the case in Lok Adalat. He withdrew the present reference in Lok Adalat today vide his statement recorded on 29-3-2007 that workman do not want to pursue with the present reference as the same has been settled amicably. In view of the same, the present reference is returned as withdrawn in Lok Adalat. Central Govt. be informed. File be consigned to record.

Chandigarh
29-3-2007

RAJESH KUMAR, Presiding Officer

क्र.अ. 1746.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण नं. 1, मुम्बई के पंचाट (संदर्भ संख्या 12/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्राप्त हुआ था।

[सं. एल-22012/37/2003-आई आर (सी-II)]
अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th May, 2007

S.O. 1746.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2003) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 17-5-2007.

[No. L-22012/37/2003-IR(C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT:

Justice Ghanshyam Dass, Presiding Officer

Reference No. CGIT-12 of 2003

PARTIES:

Employers in relation to the management of Food Corporation of India.

AND

Their workmen.

APPEARANCES:

For the Management : Mr. B. J. Sawant, Adv.

For the Union : Shri A. P. Kulkarni.

State : Maharashtra

Mumbai, dated the 26th day of April, 2007

AWARD

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub section 1 and sub section 2A of Section 10 of the Industrial Disputes Act 1947 (the Act for short). Vide Government of India, Ministry of Labour, New Delhi, order No. L-22012/37/2003-IR (C-II) dated 13-3-2003, under the directions of the

Honourable High Court of Bombay in writ petition No.3050 of 2002. The terms of reference given in the schedule are as follows :

"Whether the Transport and Dock Workers Union is justified in demanding regularization of the services of the contractor workmen working at Jalgaon, Shrirampur and Ahmednagar as permanent workmen of FCI ? If not, to what relief the workmen are entitled ?"

2. The dispute is being raised by the Transport and Dock Worker's Union (for short Union) and the statement of claim has been filed on 2-7-2003 by the Secretary of the Union. The dispute is with respect to the employees working at Jalgaon and Shrirampur depots of the Food Corporation of India (for short F. C. I.), which is a Government undertaking incorporated under the F. C. I. Act.

3. In view of the demand raised by the Union for abolition of Contract Labour System through the Central Advisory Board constituted under the Contract Labour (R and A) Act 1970, the Government of India, Ministry of Labour, in exercise of its power under Section 10(1) of the Act issued a notification dated 26-3-1991 declaring abolition of Contract Labour System in the depots of Shrirampur and Jalgaon as a result of which these workmen working on the aforesaid depots were to be absorbed as permanent employees. The F. C. I. at its most of the depots in Maharashtra like Mumbai, Marnad, Pune, Panvel Wardha etc. abolished contract labour system by direct negotiations between the Union and the FCI and made permanent all the employees. The workmen under the reference were initially appointed as contract labour but sometimes in April 1991 in view of a settlement after negotiations with the F. C. I. the workmen working at Jalgaon and Shrirampur depots organized their labour force through Labour Co-operative Society and worked as such through Co-operative Societies up to April 1995. The F. C. I. in view of a bilateral negotiation agreed to pay wages and allowances equal to the permanent workmen in May 1995. The Union emphasized the F. C. I. to make the workmen under reference permanent and for it approached the Regional Labour Commissioner (Central), Mumbai but failed. Accordingly the writ petition No. 1806 of 1993 was filed before the Honourable High Court of Bombay in which an order was passed in favour of the workmen to grant consequential benefits of permanent workers. The F. C. I. appealed before the Honourable High Court vide S. L. P. (Civil) No. 16122 to 31 of 1998 which was disposed of in favour of F. C. I. in view of the judgement of Steel Authority of India v/s. National Union Water Front Workers. Taking advantage of this judgement the F. C. I. stopped payment of wages equal to permanent worker and introduced its own Direct Payment System (D. P. S.) w.e.f. 26-11-2001. The workmen performed the same and similar type of work at par with the work performed by the permanent departmental workers and the

nature of the work is of perennial. They have been working since long without any break. They have been getting the wages from the F. C. I. under the Direct Payment System. Therefore, the dispute was raised before the Deputy Chief Labour Commissioner (Central) Mumbai. The talks of the Conciliation failed. The failure report was however, not submitted to the Government. Consequently, the writ petition No. 3050 of 2002 was filed before the Honourable High Court of Bombay in which the direction was issued to the Central Labour Commissioner to forward the failure report to the Central Government for making reference to the appropriate Tribunal for adjudication. Consequently, the instant reference has been made involving 79 workers of Jalgaon Depot and 85 workers at Shrirampur Depot who have been working for the last more than 20 years with F. C. I. without any break initially through contract system and then through Co-operative Society and lastly directly under the control of the F. C. I. under Direct Payment System. Hence, the workmen are entitled to be regularized w.e.f. 26-3-1991.

4. The written statement has been filed by the F. C. I. on 22-8-2003 and it has been alleged that F. C. I. is a Statutory Corporation set up under the provisions of F. C. I. Act 1964 and the Corporation acts on behalf of the Government of India for performing various operations entrusted to it by the Government in public interest like procuring, storing, transporting and issuing food grains for distribution under Public Distribution System and other schemes of the Government. The workmen under reference had been employed under compulsion of work as and when required through contractors and subsequently through Co-operative Societies having no right for regularization under the settled legal position as laid down by the Apex Court. It is contended that the relief of regularizing the service of the workmen and that too with retrospective effect from 26-3-1991 would impose heavy financial burden on F. C. I. and hence the relief may be refused. In this view of the matter, the F. C. I. does not wish to file the para wise reply to the statement of claim.

5. The Union filed the rejoinder on 20-1-2004 and reiterated its claim. The relief is fit to be granted in favour of the workmen keeping in mind the fact of absorption of Contract Labours in other depots by the F. C. I. and leaving aside the workmen working at Jalgaon and Shrirampur.

6. The Union filed the affidavit of Shri Takaram Piran Sonawane and Mr. Shriram Jyotiram Suravade in lieu of their examination in chief. The F. C. I. filed the affidavit of Shri Ajit Taneram Bhavsar and Shri Sadashiv Garud in lieu of their examination in chief.

7. Mr. Sonawane has stated in his cross examination that the workmen under reference are performing the duties of transportation, loading, unloading, stocking of food-grains etc. They are getting wages through Direct Payment System after the abolition of Contract Labour System. He

has further stated that "It is true the nature of work of the workers under reference was never changed. It is true that the workers under reference are not being given the benefits like HRA, CCA, Medical reimbursement and other benefits available to permanent workmen. Lowest category of permanent workers is the Loader and Godown Mazdoor. Loader does the work of loading and unloading. Godown mazdoor does the work of cleaning the godown and food-grains. During his tenure, at Jalgaon there were 53 loaders and 26 godown Mazdoors. All of them work under contract system then they own their society and now DPS system. I do not know that F. C. I. has not filed any document to show the relationship in between F. C. I. and society. DPS was enforced from November 2001. All the workers under reference are getting wages from F. C. I. under D. P. S. But they are not getting the benefit of permanent workmen."

8. Mr. Garud admitted in his cross-examination that the workmen under reference are getting wages under D. P. S. from around 2003. It is true that from the introduction of the DPS there is no intermediary contract or society for payment of wages. The wages of the workmen are not withheld at any point of time and whatever is paid to them, their earned wages as fixed by the F. C. I. He has also admitted that it is true that the control of the workers under reference is now with the F. C. I. The leave records are maintained by F. C. I. and in case of absenteeism the wages are deducted by the F. C. I. The supervision of the workmen is done by the F. C. I. There is difference in the wages and service conditions with the permanent workmen.

9. I have heard the learned counsel for the parties and gone through the record.

10. On a perusal of the evidence on record, the picture which emerges is that F. C. I. has not made a specific denial of the facts alleged in the statement of claim. The written statement filed by the F. C. I. is very short and the only contention which has been raised therein is to the effect that the workmen have no vested right to claim for regularization and parity of benefits available to permanent workmen in view of the settled legal position. Further, it has been alleged in the written statement that the grant of relief as claimed by the workmen with retrospective effect i.e. 26-3-1991 would cause great financial burden on the exchequer of F. C. I.

11. The facts are not in much dispute. It appears to be admitted position that the workmen under reference have been working with F. C. I. for the last more than 20 years. They were initially employed through contractors and subsequently through Co-operative Societies and lastly they are now under Direct Payment System since 2001. It is the admitted position that the workmen are now under the direct supervision of the Management of F. C. I. either for grant of leave benefits etc. or liable to any disciplinary action. There is no intermediary since 2001 in between F. C. I. and the workmen. Entire service record is maintained by F. C. I. The wages are paid by the F. C. I.

directly to the workmen. The service is continuous without any break for a day. They are getting the wages at par with the permanent workmen but not getting the benefits like HRA, CCA, Medical reimbursement and other benefits available to permanent workmen. The workers involved are 79 at Jalgaon and 85 at Shrirampur Depot. They are doing the work of loading, unloading. The nature of the work is perennial. It also appears to be admitted position that except these workmen no other workmen is working with F. C. I. at its Depots either on contract basis or as casual labourer or under Direct Payment System. It appears to be admitted position that after abolition of contract labour, all other casual workers working at other depots in the State of Maharashtra had been absorbed in service by F. C. I. The only exception is there with respect to the workmen under reference at Jalgaon and Shrirampur depots. It appears that these workmen were also likely to be absorbed in service but for the judgement of Steel Authority of India, the F. C. I. bargained with the workmen and made them agreeable after negotiations to work under Direct Payment System. Keeping the workman for the work of perennial nature for a long period without any break under Direct Payment System implies that F. C. I., has, in principle, accepted the workmen as its employees. There appears to be no dispute of relationship of Employer and Employees. It is not the case in which the workmen are working under any contract which is to be unveiled by the Court to ascertain to true spirit behind it and its camouflages. It is not a case in which the F. C. I. has come forward that the workmen have been kept for a short period or with intermittent breaks. There is no evidence to show that the workmen have been kept for a fixed period for a particular purpose and the employment would come to an end by afflux of time or by the fulfilment of the purpose for which they were being employed. It is not a case in which the F. C. I. has come forward that there are no sanctioned post or that the appointment is against the rules or that the F. C. I. is inclined to make a recruitment in future in accordance with rules and regulations. It is true that the F. C. I. is a Government Undertaking and the recruitment must be made in accordance with the rules and regulations but it does neither it is done nor F. C. I. appears to be in a mood to recruit so in future.

12. In view of the law laid down by the Apex Court in the case of Secretary, State of Karnataka Vs. Uma Devi II LLJ SC 722 and Indian Drugs and Pharmaceuticals Ltd. 2007 I CLR 48 the casual/daily rated workers in Government and Local Bodies are held to be not entitled to relief of absorption in a regular service or parity of pay with regular employees but can be allowed to compete waiving age restrictions and giving weightage for their past work as and when sanctioned post filled by the Department. The rules of recruitment cannot be relaxed and no direction of regularization of temporary appointee de hors the rules or for continuation in service can be given.

13. The learned counsel for the workmen cited a number of rulings viz.

AIR 1985 (SC) 409 B.I.E.L. Workers Association Vs. Union of India; 1995 HLLJ 339 (SC) Parimal Chandra Raha and Others Vs. Life Insurance Corporation of India; 1997 (I) LLR 292 (SC) Air India Statutory Corporation Vs. United Labour Union; 2000 FLEJ 1050 (SC) Railway Parcel and Goods Handling Mazdoor Union Vs. Union of India; 2000 (87) FLR 7 (SC) G. B. Pant University of Agriculture and Technology Vs. State of Uttar Pradesh; 2003 (3) CLR 188 (SC) B. H. E. L. Vs. State of Uttar Pradesh; 2004 I CLR 81 (SC) Ramsingh Vs. Union Territory Chandigarh; 2006 (2) LLN 23 (SC) workmen of Bhurkunda Colliery of Central Coal Fields and emphasized that these are the cases in which the Honourable Supreme Court issued orders for regularization.

14. Keeping in mind the settled legal position and peculiar facts and circumstances of the present case noted above, I feel that the workmen under reference working under direct control of F. C. I. and having the payment of wages under Direct Payment System be regularized for the primary obvious reason that the F. C. I. has already absorbed such other workmen working at other depots and workmen under reference only have been left out. There should be no discrimination amongst the workmen working under the same terms and conditions. However, the regularization with retrospective effect i.e. March 1991 does not appear to be equitable. However, I feel that they deserve to be regularized from the date of publication of the Award.

15. An Award is made accordingly.

Justice GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 17 मई, 2007

क्र.अ. 1747.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, आसनसोल के पंचकट (संदर्भ संख्या 32/1996) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-2007 को प्राप्त हुआ था।

[सं. एन-22012/553/1995-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th May, 2007

S.O. 1747.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 32/1996) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation of the

management of ECL and their workmen, which was received by the Central Government on 17-5-2007.

[No. L-22012/553/1995-IR(C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

Present :

Sri Md. Sarfaraz Khan, Presiding Officer

REFERENCE No. 32 of 1996

PARTIES:

The Agent,
Samla Kendra Colliery of E.C.L.,
Pandaveshwar, Burdwan

V/s.

The General Secretary,
Colliery Mazdoor Sabha,
G.T. Road,
Asansol, Burdwan

REPRESENTATIVES:

For the Management : Sri P.K. Banerjee, Advocate

For the Union (Workman) : Sri N. Ganguly, Advocate

Industry: Coal State: West Bengal

Dated: 7-2-2007

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its Letter No. L-22012/553/96-IR(C-II) dated 21-8-96 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the dismissal order of the management of Samla Kendra Colliery under Pandaveshwar Area of M/s ECL in respect of Sh. Mahitar Dhangar, Winding Engine Operator is justified? If not, what relief the workman is entitled to?"

After having received the Order No. L-22012/553/95-IR(C-II) dated 21-8-96 of the said reference from the Govt. of India, Ministry of Labour, New Delhi, for adjudication of the dispute, a reference case No. 32 of 1996 was registered on 27-8-96 and accordingly an order to that effect was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date fixed and to file their written statements along with

the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices were issued to the parties concerned through the registered post. Sri N. Ganguly, Advocate and Sri P. Banerjee, Advocate appeared in the Court to represent the union and the management respectively and filed their written statement in support of their respective claim.

From perusal of the record it transpires that the case was fixed for final hearing and both the parties were directed to come ready for argument. It further transpires that the union in spite of direction failed to appear in the court on 18-10-06, 12-12-06 and 07-02-07 for final argument. It appears that the union is not interested to pursue the record. Neither the union nor its lawyer or the workman concerned appeared in the court to take any suitable steps. In such circumstance it is not advisable to keep the record pending any more for appearance of the union in order to take suitable steps. As such it is hereby

ORDERED

that let a "No dispute Award" be and the same is passed. Send the copies of the award to the Govt. of India, Ministry of labour, New Delhi for information and needful. The reference is accordingly disposed of.

MD. SARFAR Z KHAN, Presiding Officer

नई दिल्ली, 17 मई, 2007

का.आ. 1748.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम.सी.एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 411/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-2007 को प्राप्त हुआ था।

[सं. एल-22012/334/2000-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th May, 2007

S.O. 1748.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 411/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation of the management of MCL and their workmen, which was received by the Central Government on 17-5-2007.

[No. L-22012/334/2000-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

PRESENT:

Shri N.K.R. Mohapatra, Presiding Officer
C.G.I.T.-cum-Labour Court, Bhubaneswar

Industrial Dispute Case No. 411/2001

Date of Passing Award—12th April, 2007

BETWEEN:

The Management of the Project Officer,
Hingula OCP of MCL, PO. Dera Colliery,
Distt. Angul-759 103

... 1st Party-Management

AND

Their Workmen, represented through the
General Secretary,
Hingula Colliery Mazdoor Sabha,
NSN, Bharatpur Colliery,
PO. South Balanda,
Distt. Angul-759 103

... 2nd Party-Union

APPEARANCES:

Shri M. Suresh Rao. : For the 1st Party-
Authorised Representative Management

Shri Biranchi Narayan Pani : For the 2nd Party-
Management

AWARD

The Government of India in the Ministry of labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2 (a) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-22012/334/2000-IR (C-II), dated 14-6-2001:

SCHEDULE

"Whether the action of the Management of Hingula OCP of MCL by transferring Shri Nidhi Samal, Dumper Operator and Sh. Satananda Bhutia, Dumper Operator is a violation of Para—21.1 of the Certified Standing Order of MCL? If so, what relief the workmen are entitled to?"

2. The Management of Mahanadi Coal Fields Limited is primarily engaged in mining and selling of coal in the State of Orissa. Hingula O.C.P. under Hingula Area and Jagannath Area are it other establishments besides other. Admittedly the disputant-workman namely Shri Nidhi Samal and Sayananda Bhutia, the two Dumper Operators of Hingula O.C.P. were transferred to Jagannath Area vide order No. 576, dated 5-8-2000 of the General Manager (A & R) M.C.L. and vide order No. 387, dated 9-8-2000 of the General Manager Hingula Area they were ordered to be relieved on 11-8-2000 so as to enable them to join in their new place of appointments in their existing grade/capacity. The moment the above relive order was passed on 9-9-2000 both the workmen remained on sick leave and after raising an Industrial dispute before the R.L.C. (C)

through the present Union known as Hingula Colliery Mazdoor Sabha reported for duty in their former place of work at Hingula on 12-9-2000 and on 13-9-2000 joined in Jagannath area as per the relieve order dated 9-8-2000. It is alleged by the Union that, the management was carrying a partition attitude towards different trade Unions and therefore these workers were transferred vindictively as they were belonging to their Union. It is further alleged that before transferring these workmen they were not issued with any 14 days clear notice as required under order 21.1 of the certified standing order of the company and therefore the said order of their transfer is an illegality on the part of the Management.

3. The Management on the other hand have averred in nut-shell that the transfer of the workman being on the ground of emergency no such advance notice was required as prescribes under Order 21.1 of the Standing Order. At another stage of their counter it is contended that the transfer was effected on the ground of exigency of work and therefore the Management was not required to give in writing the reasons of transfer along with the transfer order as claimed by the Union. While challenging the locus standi of the union it is further contended by the management that the workmen were never the members of the Union in question and therefore the later had no justification to raise a dispute before the R.L.C. (C). Though there was no ill motive of the Management behind such transfer order, the Union in question raised an Industrial Dispute unnecessarily just to come to prominence even though the workmen had never authorized it to agitate their cause before the R.L.C. (C). In nutshell it is claimed by the management that the order of transfer was validly passed and needs no interference by the Tribunal.

4. On the basis of above pleadings of the parties the following three issues were framed.

ISSUES

1. Whether the reference is maintainable ?
2. Whether the action of the management of Hingula O.C.P. of M.C.L. by transferring Shri Nidhi Samal, Dumper Operator and Shri Satyananda Bhutia, Dumper Operator is violative of Para 21.1 of the Certified Standing Order of MCL ?
3. If so, to what relief the workmen are entitled ?
5. One witness each has been examined by the parties besides producing some documents.

ISSUE NO. 1

6. This issue having not been pressed into service sincerely it needs no answer.

ISSUE NO. 2

7. The main contention of the parties being about the validity of the Transfer order issued to the workman it

is profitable to quote the relevant portion of the Standing Order as admittedly applicable to these workmen.

Order 21.1 : Workman may be transferred due to the exigencies of work from one station to another and provided further that (i) Except in case of emergency, minimum notice of two weeks is given on such transfer and (ii) reasonable joining time is allowed in case of transfer from one station to another.

8. From the above provision of the Standing Order it is clear that in case of emergency a person can be transferred from one job to another job of similar nature without any advance notice being given to him. But in case of other transfer minimum notice of two week is to be given in advance if such transfer is made on the ground of exigency of work.

9. Ext.-D is the order of transfer dated 5-8-2000 issued by the Head Office of M.C.L. and Ext.-C is the relieving order dated 9-8-2000 issued by the General Manager of Hingula Area, where the workmen were working. In his evidence the management Witness, the Supervisor of Mines of Hingula Area, states that the transfer of the workmen was not made on the ground of emergency but it was made on ground of exigency and there being no change in the nature of their job by this transfer no option of the workmen was needed to be asked before effecting their transfer. He further states that when the transfer order came from the head office both the workmen went on medical leave from 9-8-2000 for about one month and after returning from leave on 15-9-2000 they protested against their transfer but however joined in their new place of posting on 13-9-2000. It is admitted by the Union that these workmen after availing leave reported for duty on 12-9-2000 and on 13-9-2000 they joined in their new place of posting on the basis of relieve order dated 9-8-2000 (Ex. -C). During cross examination the workmen Satyananda Bhutia, the sole witness examined on behalf of the Union, admitted that by the above transfer any of their service conditions were not changed. He further says that after his above transfer to Jagannath Area he was promoted to Grade-C/G rade-II in the post of Dumper Operator.

10. The transfer order Ext.-D issued by the head office of M.C.L. shows that along with these two workmen another Dumper Operator Srichandan Sahu of Jagannath Area also transferred in the same order. If its transfer order is examined along with the facts discussed in the previous Para it would indicate that the above order of transfer was made in due course on the ground of exigency of work as contended by the management Witness.

11. Ext.-D is the transfer order dated 5-8-2000. Ext.-C is the relieve order dated 9-8-2000 and Ext. -B is the office order of Jagannath Area intimating to its higher authority the fact of joining of these workmen in their place of transfer. A close scrutiny of Ext. -D and C indicates that no specific

date was prescribed in any of these letters suggesting a joining date. Ext.-B indicates that when the workman joined in their new assignment about months after the relieve order, no adverse view of their late joining was taken. Therefore in such circumstances, when the workmen were never asked to join in their new assignment on or before a particular date, the order of transfer can itself be construed as an advance notice of their transfer as required under Standing Order 21.1. Had the management suggested a joining date within 14 days of the issuance of the transfer order or relieve order, the matter would have been different and contrary to the provisions of Order 21.1 of the Standing Order.

12. Ext.-1 shows that the Union in question was registered on 30-6-2000 i.e. about two months before the dispute was raised before the Labour Enforcement Agency. Ext.-E is a letter dated 3-1-2000 of the workmen (W.W.-1) authorizing the management to deduct from his pay bill the monthly membership fees payable to his Union Talcher Koila Khani Mazdoor Sangh. During cross examination he admits to have had not withdrawn his above authorization by the time the present dispute was raised by the Union in question, suggesting thereby that he was not a member of the Union in question by the time the dispute was raised. Therefore the allegation of the Union that the workmen were transferred vindictively as they were its members can not be believed without a pinch of salt. When no specific joining date was given to these workmen they could have joined in their new assignment after availing transit as per the company's rule and therefore there was absolutely no justification for a Union of two months old to raise a dispute with a strike notice immediately after such transfer order was passed. The hastiness with which it is done makes one believe that the intention of the Union behind raising the dispute was purely to capture the field by keeping the Management under its thumb. Therefore in these circumstances it is held that the order of transfer or the action of the Management in issuing such order does not suffer from any legal infirmities.

ISSUE NO. 3

13. In view of the discussions made under Issue No. 2 the workmen are not entitled for any relief.

14. Accordingly the reference is answered.

Dictated and Corrected by me.

N.K.R. MOHAPATRA, Presiding Officer.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE WORKMAN

Workman Witness No. 1—The workman Himself Shri Satyananda Bhutia.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE MANAGEMENT

Management Witness No. 1—Shri S.K.H. Khadri.

LIST OF EXHIBITS ON BEHALF OF THE 2nd PARTY-WORKMAN

- Ext.-1 : Copy of the letter of the General Secretary, Hingula Colliery Mazdoor Sabha dated 16-8-2000 addressed to the A.L.C. (C) Bhubaneswar.
- Ext.-2 : Copy of the letter of Shri Satyananda Bhutia, dated 12-9-2000 addressed to the Personnel Officer, Hingula Area.
- Ext.-3 : Copy of the letter of Shri Nidhi Samal, dated 12-9-2000, addressed to the Senior Personnel Officer, Hingula Area.

LIST OF EXHIBITS ON BEHALF OF THE 1st PARTY-MANAGEMENT

- Ext.-A : Office Orders and Standing Orders of MCL.
- Ext.-B : Office Order No. 15505 dated 14-9-2000 of Dy. Chief Personnel, Manager, Jagannath Area, of MCL.
- Ext.-C : Office Order No. 387, dated 9-8-2000 of the Senior Personnel Officer, Hingula Area of MCL.
- Ext.-D : Office Order No. 576, dated 5-8-2000 of Shri S.P. Singh, General Secretary, General Manager MCL.
- Ext.-E : Copy of the authorization of the disputant to Talcher Koila Khani Mazdoor Sangh.
- Ext.-F : Certified Standing Orders in respect of South Eastern Coal Fields Limited/Mahanadi Coal Fields Limited.

नई दिल्ली, 17 मई, 2007

का.आ. 1749.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.एम.पी.डी.आई.एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 101/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-2007 को प्राप्त हुआ था।

[सं. एल-22012/592/1994-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th May, 2007

S.O. 1749.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 101/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation of the Management of CMPDIL and their workmen, which was received by the Central Government on 17-5-2007.

[No. L-22012/592/1994-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/101/95

Shri C.M. Singh, Presiding Officer

The General Secretary,
 K.M.S. (UTUC),
 P.O. Dhanpuri,
 Shahdol

... Workman/Union

Versus

The Regional Director,
 CMPDIL,
 M.V. Market,
 Bilaspur (MP)

... Management

AWARD

Passed on this 26th day of April-2007

1. The Government of India, Ministry of Labour with its Notification No. L-22012/592/94-IR-C-II dated 26-5-95 has referred the following dispute for adjudication by this tribunal :

"Whether the action of Regional Director, Central Mine Planning and Design Institute Ltd. Bilaspur in not giving employment to Shri Mahendra Pratap at CMPDIL Bijuri Camp w.e.f. 1-9-92 in the same capacity he was employed in the year 1988 is legal and justified? To what relief the workman is entitled to?"

2. The case of workman Shri Mahendra Pratap in brief is as follows. That he was employed as Category-I labour with CMPDI Ltd. at camp Bijuri since 27-12-87. The officer incharge, CMPDIL, Bijuri camp ceased him to work from September-1988. The workman raised an industrial dispute before ALC(C), Shahdol which ended in settlement to the effect that workman Shri Mahendra Pratap will be re-employed at CMPDI Ltd. Camp Bijuri as casual labour in the same capacity in which he was employed during the year 1988. The workman approached the management for giving him re-employment as per terms of settlement. The management asked him to sign a conditional agreement which he refused to sign. On it, the CMPDIL Ltd. did not re-employ him. Therefore UTUC Union again raised industrial dispute before Additional Labour Commissioner (C) but the conciliation failed. The CMPDIL committed an offence by not complying with the settlement reached before ALC (C) Shahdol. The workman/Union has prayed that as per settlement dated 1-9-92, he may be re-employed with wages.

3. The management in order to contest the reference filed their Written Statement. Their case in brief is as follows. The CMPDIL, RI-V, Bilaspur was established in 1986. The CMPDIL, Bilaspur is having a exploration camp at Bijuri

where regular employees are posted. Till the year 1988, due to exigencies of work in Bijuri, some local labourers were engaged for casual nature of jobs either on contract basis or on daily wages. However after 1988, no such casual labourers were engaged in Bijuri camp due to posting of regular workmen. Shri Mahendra Pratap was engaged on casual nature of jobs on contract basis/daily wages and against leave vacancies in the year 1988. He was engaged for the first time on 12-4-88 and from time to time he was engaged on casual nature of jobs upto September-1988. His total engagement during the period as per management's record was only 93 days. However with the posting on transfer of some employees at Bijuri camp, services of all casual workers were dispensed with in September-1988. The main work of CMPDIL is to drill boreholes for which drill machines are shifted from one borehole point to another. Before moving to new borehole point, sumps are to be dug for storing water required for drilling, approach to the site are to be leveled and sometimes shrubs and bushes are also to be cut to enable the drill machines, vehicles, men and material to be taken to and from the borehole sites. Such jobs which are casual in nature, are done on contract basis and payments are made on measurement basis, directly to the workmen. In the settlement before ALC(C), Shahdol on 30-7-92, management had agreed to employ Shri Mahendra Pratap as a casual labour in the same capacity he was employed during the year 1988 and both parties were to submit implementation report within 30 days of the date of settlement i.e. by 29-8-92. Shri Mahendra Pratap did not report for work within 30 days for the settlement. He reported the office of the Officer Incharge, Bijuri for work on 31-8-92. He was informed by OIC, Bijuri that 30 days agreement period is already over and he is not bound to provide him any work. On persistent request, on humanitarian ground, Shri Mahendra Pratap was offered a job of sump digging on contract basis which is purely a casual nature of job. Fortunately this work was available on that day and workman Shri Mahendra Pratap was offered the opportunity. The workman started the work that day but next day, he did not turn up to complete the job. This affected management's work and the management had to get the work completed through other agency. The workman again reported on 16-9-92 and apologised verbally for leaving the work without information on 31-8-92. On his tendering verbal assurance of not repeating such behaviour in future, he was again given similar job of sump digging on contract basis which he refused to do. The above behaviour of workman Shri Mahendra Pratap indicates that he is only interested in lighter work and not fulfilling the work which is available on that day. The workman is not entitled to any relief what-so-ever. He was engaged only for 93 days as and when required against leave vacancies and this does not qualify him for regularisation. The attendance records produced by the union in the conciliation proceeding, also reveals that workman Shri Mahendra Pratap had worked for less than 240 days. Workman Shri Mahendra Pratap

failed to report for work within 30 days as per terms of settlement dated 30-7-92. The workman was not willing to take up the available work which was offered to him on humanitarian ground. It is requested by the management that the action of the management be held fully justified and the workman is not entitled to any relief what-so-ever.

4. Workman Shri Mahendra Pratap in support of his case examined himself. The management in order to defend the reference examined their witnesses Shri Ashok Kumar, the then working as WO/PO/Sr. Personnel Officer with CMPDI, RI-V, Bilaspur and Shri Shivsagar, then working as Sr. Ringman with CMPDI, camp Kusmunda.

5. Both the parties have filed certain Photostat copies of documents. Those Photostat copies have not been proved in accordance with the law of evidence and therefore, those copies cannot be read in evidence.

6. Both the parties have filed written argument. I have very carefully gone through the entire evidence on record and the written argument filed on behalf of the parties. I have heard Shri A.K. Shashi, Advocate the learned counsel for management. I could not have an opportunity to hear the learned counsel for the workman/Union.

7. It has been submitted in the written argument on behalf of the workman/Union that the management is bound to give effect to the settlement arrived at between the parties before ALC(C), Shahdol. Against the above, the learned counsel for the management submitted that the workman reported to the office of Officer Incharge, Bijuri for work in 31-8-92. That he was informed by the Office Incharge, Bijuri that the 30 days agreement period of the settlement is already over and the management is not bound to provide any work to him. In this respect, workman Shri Mahendra Pratap stated in his affidavit that when appeared before the Officer Incharge Bijuri on 4-8-92 to seek employment according to the settlement, he was asked to sign a conditional agreement which he refused to sign. As against the above, the management witness Shri Ashok Kumar, then working as WO/PO/Sr. Personnel Officer with CMPDI, RI-V, Bilaspur deposed that the workman reported to Officer Incharge, Bijuri for work on 31-8-92 and he was informed by Officer Incharge that 30 days agreement period is already over and he is not bound to provide any work. There is no corroborative evidence either oral or documentary that the workman appeared before Officer Incharge, Bijuri in his office for work on 4-8-92 to seek re-employment and he was asked to sign additional agreement, which he refused to sign. Therefore the above oral testimony of the interested witness within being corroborated by any independent cogent evidence cannot be placed reliance upon. The learned counsel for the management submitted that from the evidence of both the sides, it is crystally clear that the workman was engaged for casual employment on contract. That he was paid wages for the work done by him and he

was not appointed as per the procedure laid down for recruitment. Workman Mahendra Pratap admitted during the evidence of his cross-examination that he was employed as daily-wager. He has clearly deposed that he used to get the wages after a fortnight and he was employed on daily wages of Rs. 10.50. He has also admitted in his evidence of cross examination that he was neither medically examined nor any appointment letter was given to him. He also stated that before his employment, no interview took place. This witness has also admitted that his name was not sponsored from the employment exchange office. Thus it is clear that the workman was not employed by following the procedure for recruitment.

8. The learned counsel for the management further submitted that as per the workman, he was engaged on daily wages. And if so, the contract of appointment starts in the morning and comes to an end of the day. He emphasised that the appointment of these nature are contract appointments and therefore, termination in the instant case cannot be treated as retrenchment. He also emphasised that the provisions of retrenchment would apply where person has worked for 240 days in a calendar year but in the instant case the workman himself admitted that he had worked only for 185 days and therefore the claim of workman is out of scope of I.D. Act, 1947. It is crystally clear from the evidence of cross-examination of workman Shri Mahendra Pratap that he stated that he had deposed before ALC(C), Shahdol that he had worked only for 185 days. Thus it is not proved that the workman worked with the management either for 240 days or more and therefore his claim is naturally out of scope of the provisions of I.D. Act, 1947.

9. The learned counsel for the management also submitted that workman Shri Mahendra Pratap's name was not sponsored by the employment exchange and as such he could not seek to cut down the constitutional rights of other persons of employment through employment exchange and selection by the CMPDIL because the employment exchange is the only agency where any person seeking employment can register himself and reference to Employment Exchanges guarantees the equality of opportunity for employment. As already mentioned above, the workman has deposed in his evidence of cross-examination that his name was not sponsored by employment exchange, the above argument advances by the learned counsel for the management has force.

10. The learned counsel for the management placed reliance on 1987 (II)LLN-Pg. 20 wherein the Hon'ble Supreme Court of India has observed that it is the desire of the Government of India that all Government Departments, Government Organisations and Statutory Bodies should adhere to the rule that not merely the vacancies should be notified to the employment exchange but the vacancies should also be filled by candidates sponsored through

employment exchanges. That it was only when no suitable candidates are available then other sources of recruitment were to be considered. In the case of public employment, it is necessary to eliminate arbitrariness and favoritism and introduce uniformity of standards and orderliness in the matter of employment. There has to be an element of procedural fairness in recruitment. If a public employer chooses to receive applications for employment as and when he pleases, and chooses to take appointment as he likes, a gross-element for arbitrariness is certainly introduced. This must necessarily be avoided if Articles. 14 and 16 have to be given any meaning.

11. The learned Counsel for the management also placed reliance on 1995(I) LLJ pg. 927, in which the Hon'ble Supreme Court of India observed that eligibility and continuous working for however long period should not be permitted to overreach the law. Requirement of rules of selection through Public Service Commission cannot be substituted by human consideration. In the case of recruitment of sub-staff in CMPDIL, the Government has issued directives in selection the candidates sponsored through employment exchange. The legal validity of the instructions given by the Government has been upheld by the Supreme Court in the case of Union of India and others *versus* N. Hargopal and ors.

12. The learned counsel for the management also placed reliance on 1996(II) SCC-Pg. 341 wherein the Hon'ble Supreme Court of India has held that appointment on regular basis after selection according to rules, held a condition precedent hence persons appointed as part time employees de hors the rules, even though regularly working for a long time, are not entitled to regularisation.

13. In view of the above, it is concluded that the workman failed to approach the management for being reemployed as per the settlement arrived at between the parties before ALC(C), Shahdol within the stipulated period of time. It is also concluded that the workman failed to prove that he worked with management for 240 days or more in a calendar year. Therefore the reference deserves to be answered in favour of management and against the workman. But considering the facts and circumstances of the case, I am of the view that the parties be directed to bear their own costs of this reference.

14. In view of the above, the reference is answered in favour of the management and against the workman and it is hereby held that the action of Regional Director, Central Mine Planning and Design Institute Ltd., Bilaspur in not giving employment to Shri Mahendra Pratap at CMPDIL Bijuri Camp w.e.f. 1-9-92 in the same capacity he was employed in the year 1988 is legal and justified. Consequently the workman is not entitled to any relief. The parties shall bear their own costs of this reference.

15. The copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C.M. SINGH, Presiding Officer

नई दिल्ली, 17 मई, 2007

क्रा.आ. 1750.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आर्केलोजिकल सर्वे ऑफ इंडिया के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 184/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्राप्त हुआ था।

[सं. एल-42012/68/2001-आई आर (सी एम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 17th May, 2007

S.O. 1750.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 184/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Archaeological Survey of India, and their workmen, which was received by the Central Government on 17-05-2007.

[No. L-42012/68/2001-IR(CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/184/01

Shri C. M. Singh, Presiding Officer

Shri Vishram Singh,

S/o Harju Ahirwar,

R/o Singhpur Taal, Chanderi,

Guna.

... Workman/Union

Versus

Assistant Superintendent,

Archaeological Survey of India,

Archaeological Museum,

Singhpur Palace,

P. O. : Chanderi,

Guna.

... Management

AWARD

Passed on 3rd day of May 2007

1. The Government of India, Ministry of Labour vide its Notification No. L-42012/68/2001-IR (CM-II) dated

27-11-2001 has referred the following dispute for adjudication by this tribunal :

"Whether the action of the management of Asstt. Superintendent, Archaeologist, Archaeological Survey of India, Chandri in terminating the services of Shri Vishram Singh, S/o Harju Ahirwar w.e.f. February 2000 is justified ? If not, to what relief the workman is entitled for ?"

2. The case of workman Shri Vishram Singh is as follows. That he was initially appointed on July 1994 to work as a labour. He continued to discharge his duties as a labour till 29-2-2000, whereafter his services were terminated by a verbal order. Before terminating the services, the employer did not issue any notice of termination to the workman. The management also failed to pay wages in lieu of notice period. The management has failed to provide any retrenchment compensation to the workman. Thus the mandatory provision of Sec-25(F) of the I.D. Act 1947 were not complied with. The employer also violated the provisions of Rule-77 of I.D. (Central Rules) 1957 in as much as failing to publish a copy of the properly prepared Seniority List of the category of the workman herein, 7 days prior to the date of termination. The termination of services of the workman w.e.f. 29-2-2000 is bad in law and the workman is liable to be reinstated in service with full back wages.

3. The reference proceeded ex parte against the management. The workman adduced ex parte evidence in the form of affidavits.

4. 3-5-07 was the date fixed for hearing ex parte argument. On this date, Shri N.K. Salunke, Advocate, the learned counsel for the workman and the workman Shri Vishram Singh in person came present. Shri Salunke submitted that the workman stated to him that now no dispute is left with the management and therefore no dispute award be passed in this case.

5. The order sheet dated 3-5-07 further reveals that on the said date, workman Shri Vishram Singh stated before this tribunal that no industrial dispute is left between him and the management and no dispute be passed in the case.

6. In view of the above, no dispute award is passed in this reference case without any orders as to costs.

7. Copy of the award be sent to the Government of India, Ministry of Labour as per rules.

C.M. SINGH, Presiding Officer

नई दिल्ली, 17 मई, 2007

का.आ. 1751.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल इन्स्टीट्यूट ऑफ फ्रेशवाटर एक्वाकल्चर के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय

सरकार, औद्योगिक अधिकरण, भुवनेश्वर के पंचायत (संदर्भ संख्या 30/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्राप्त हुआ था।

[सं. एल-42012/3/2005-आई.एल. (सी.एम.-II)]

अजय कुमार गौर, डेस्क अधिकारी

New Delhi, the 17th May, 2007.

S.O. 1751.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 30/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the management of Central Institute of Freshwater Aquaculture (CIFA) and their workmen, which was received by the Central Government on 17-05-2007.

[No. L-42012/3/2005-IR (CM-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BHUBANESHWAR

Present :

Shri N.K.R. Mohapatra,
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar,

INDUSTRIAL DISPUTE CASE NO. 30/2005

Date of Passing Award—26th April, 2007

Between :

The Management of the Director,
Central Institute of Fresh Water Aquaculture
(CIFA), Bhubaneswar-751 002.

.....1st Party—Management

And

Their Workmen, represented through the
General Secretary, CIFA Shramik Sangha,
P.O. Kausalyaganga, Bhubaneswar-751 002,

.....2nd Party—Union

APPEARANCES :

Shri K.C. Das, For the 1st Party-
Asstt. Administrative Officer Management.

Shri Dhaneswar Behera For the 2nd Party-
Union

AWARD :

The Government of India, Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1)

and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-42012/3/2005 (IR CM-II), dated 08-11-2005.

"Whether the action of the Management of Central Institute of Fresh Water Aquaculture in terminating the services of 10 workmen (list enclosed) is legal and justified? If not, to what relief the workmen are entitled to?"

2. The shortly stated admitted facts of both parties is that during the year 2001 about more than 100 casual labourers including the 10 disputant workman were terminated. Of these terminated persons 99 workers raised an Industrial Disputes before the Asstt. Labour Commissioner (Central) through their Union (other than the present Union). In consequence a Tripartite Agreement was reached under which it was agreed that the Management would provide jobs to 60% of these workers through contractors. Some workers other than the disputants were accordingly provided with jobs through contractors. Being deprived of such job these 10 disputants raised another Industrial Dispute claiming their termination as bad. When the Government of India did not feel it fit to refer their case for adjudication, these workmen agitated another dispute through the present Union which ultimately culminated in the present reference.

It is alleged by the Union in its counter that out of these 10 disputants one was working since 1991, five since 1998, three since 1999 and another Shri Prabhat Kumar Satpathy since June 2000 by the time they were disengaged in July 2001. Since at the time of refusing employment no notice or retrenchment benefits were given to these workmen it is claimed that they are liable to be reinstated with full back wages.

3. As against the above, it is averred by the Management that these disputants and many others were engaged on need basis in different time bound projects of the Management and on completion of these projects they were disengaged in the relevant year. After the above termination an Industrial Dispute was raised by 99 workers including the disputant through their Union, Kalinga Shramika Sangh (other than the present Union) and according to a tripartite settlement 60% of them were given employment through the contractors engaged subsequently while the disputants could not be accommodated. As these disputants were parties to that settlement they are estopped from claiming the relief asked for in this case. As to non-compliance of Section 25-F of the Industrial Disputes Act it is contended by the Management that since the engagement of these workers was on need basis to attend menial nature of job in different projects, their termination on closure of the projects can not be regarded as retrenchment so as to attract the provisions of Section 25-F of the Industrial Disputes Act.

In nutshell it is otherwise contended by the Management that in view of the earlier Tripartite Settlement between the Management and the Kalinga Shramika Sangh of which the disputants were the members earlier, the present reference is not maintainable and the disputants are not entitled to any other relief beyond such settlement.

4. On the basis of the above pleadings of the parties the following issues were framed:

ISSUES:

1. Whether the action of the Management of Central Institute of Fresh Water Aquaculture in terminating the services of 10 workmen as per list was legal and justified?

2. If not, what relief the workmen are entitled to?

5. From the side of the Union its General Secretary and one of the disputants have been examined as W. W. 2 and W. W. 1 respectively. From the side of the Management its Senior Technical Officer (Engineering) has alone been examined as M. W. 1.

ISSUE NOS. 1 and 2:

6. These issues are taken up jointly as they are interdependent.

The Management Witness (M. W. 1) does not dispute the engagement of these disputants in different project and department of the Management. He categorically says these 10 disputants and many others were engaged on daily wage since 1997-98 in different Unit Office and Projects undertaken by these Units to do miscellaneous work such as weeding work, feeding work, grass cutting, maintenance and cleaning of firm and fish culture tanks as per time to time requirements so as to assist the Scientists to carry out their research work in Breeding Unit, Fish Culture Unit, Physiology and Hygiene Unit, Pond Environment Unit, Pathology Unit, Statistics Unit, Fish Nutrition Unit etc. Integrated Project work being a part of research work the Management used to keep goats, cows, pigs, chickens etc. to utilize their dung and excretes as food for the fishes and this is done as a part of research work and to minimize the feeding expenses. These activities such as maintenance of these animals like cows etc. and feeding of their dung and excretes to fishes reared in different tanks are being carried out through these workers since about last ten years as part of the Project work. The witness further stated that these projects work and the normal work of the Management can not be carried out without engaging menial workers like the disputants. He also admits that these disputants were working continuously since 1997 onwards till they were disengaged in 2001. Ext. 2/1, a list of Labourers prepared by the Management in June 2001 shows that the workman Pravat Kumar Satpathy was engaged since June 2000 while the list of the workmen are in the roll since 1998-99, all

suggesting that they were in continuous engagement for more than 240 days in a year by the time they were terminated in June 2001. The evidence adduced by the Union being to the self same effect and as admittedly no retrenchment compensation or advance notice was given to these workmen before their termination, the above action of the Management can not be said to be free from blemish. It is no doubt true that after the above termination of the workers numbering about 100 a tripartite agreement was reached with the espousing Union, Kalinga Shramik Sangh to provide employment to 60% of the terminated workers through contractors. But that in no way can take away the right of the workmen as given to them under Section 25-F of the Industrial Disputes Act when admittedly they were not paid any retrenchment benefits at the time of their termination even though by then each had worked for 240 days continuously during the preceding 12 months. Therefore in the above premises the action of the Management in refusing employment to the disputants in July 2001 is held to be bad under law.

7. As regards the relief to be given to the workmen the evidence adduced by both the parties shows that after terminating the workers the Management had given contract of the work performed by these workers to an outside Labour Supply Agency almost soon after the above termination amounting to retrenchment took place. Therefore in lieu of retrenchment and back wages the Management is directed to pay compensation of fifty thousand to each of the disputant workmen within three months of publication of this award. The amount should be paid in the shape of fixed deposits in any nationalized bank for a period of five years with quarterly payable interest.

8. The reference is answered accordingly.

Directed and corrected by me.

N. K. R. MOHAPATRA, Presiding Officer

LIST OF THE 10 WORKMEN

01. Harekrushna Sethy.
02. Taranisena Behera.
03. Budhiram Muduli.
04. Prayata Kumar Satapathy.
05. Sukant Kumar Pattnaik.
06. Karu Ch. Bhanja.
07. Gopal Chandra Jena.
08. Brajabandhu Mallik.
09. Ramesh Chandra Mallik.
10. Sukru Behera.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE WORKMAN

Workman Witness No. 1—Shri Gopal Chandra Jena.

Workman Witness No. 2—Shri Debendranath Mallik.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE MANAGEMENT

Management Witness No. 1—Shri Chakradhar Sahu.

LIST OF EXHIBITS ON BEHALF OF THE 2nd PARTY-WORKMAN

- Ext-1 Copy of letter No. 4676, dated 11-11-2003 of Asstt. P. F. C., Orissa, Bhubaneswar.
- Ext-1/1 Enclosure to Ext.-1.
- Ext-2 Copy of the Tripartite Agreement dated 26-9-2001.
- Ext-2/1 Copy of the list of Workers.
- Ext-3 Copy of the representation of the Union before the A. L. C. (C) dated 1-10-2001.
- Ext-4 Copy of the reply of CIFA Management to the A. L. C. (C) Bhubaneswar No. 728 dated 22-10-2001.
- Ext-5 Copy of the F. O. C. report of the A. L. C. (C) Bhubaneswar No. 8(26)/2004-BBSR/13 dated 30/31-12-2004.

LIST OF EXHIBITS ON BEHALF OF THE 1st PARTY-MANAGEMENT

- Ext-A Copy of the letter No. 2-42012/77/2002-IR (CM-II) dated 4-6-2004 of Desk Officer, MCL, Government of India, New Delhi.

नई दिल्ली, 21 मई, 2007

का.आ. 1752.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रीय विद्यालय के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय, पुणे के पंचाट (संदर्भ आई डी ए सं. 295/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-5-07 को प्राप्त हुआ था।

[सं. एल-42012/35/97-आई आर (डी. यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1752.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Labour Court, Pune (Ref. IDA No. 295/1998) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Kendriya Vidyalaya and their workmen, which was received by the Central Government on 21-05-2007.

[No. L-42012/35/97-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI G. S. WANKHEDE, PRESIDING
OFFICER, THIRD, LABOUR COURT AT PUNE

Reference (IDA) No. 295/1998

Government of India,
Bharat Sarkar,
Ministry of Labour/Shram Mantralaya,
New Delhi ... Ist Party

AND

Shri L. N. Mhaske,
Boys Sports Hostel,
Kendriya Vidyalaya,
BEG, Pune ... IInd Party

APPEARANCES:

For the Ist Party : Smt. Londhe, Adv.

For the IInd Party : Shri Gopale, Adv.

AWARD

(Dated : 7-7-2006)

1. This reference is made by Government of India/ Bharat Sarkar, Ministry of Labour/Shram Mantralaya, New Delhi, u/s 10(1) and 12(5) read with Sec. 2-A of the Industrial Disputes Act for adjudication of the dispute between the above referred parties over the following demands :

“That the IInd party be reinstated with continuity of service and full back wages for the intervening idle period.”

2. The IInd party is absent. His advocate filed Application Exh. 39, which is rejected. Record indicates that IInd party deposed on oath on 17-6-05 since then till today he is remain absent and avoid the cross-examination. However his 4 adjournment-application were granted by the Court and last application Exh. 38 was finally granted. Even then the IInd party did not turn up which indicates that he is not interested to proceed with the reference in view of avoiding cross-examination since last one year. His examination in chief could not be considered and accordingly discarded. In this way there is no evidence from the IInd party and therefore, Reference stands answered in negative for default and for want of prosecution. No costs.

Place : Pune

Dated : 7-7-2006 G. S. WANKHEDE, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1753.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/

श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 117/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-05-2007 को प्राप्त हुआ था।

[सं. एल-40012/6/2002-आई आर (डी. यू.)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1753.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 117/2002) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 21-05-2007.

[No. L-40012/6/2002-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-1, CHANDIGARH

Case No. I. D. 117/2002

Shri Tarsem Singh, S/o Sh. Mal Ditta, V. P. O. Nada,
Tehsil Kharar, Ropar ... Applicant

Versus

The Principal General Manager, Telecom, Sector-18,
Chandigarh-160001 (U. T.) ... Respondent

APPEARANCES:

For the Workman : None

For the Management : Shri G. C. Babbar

AWARD

Passed on 24th April, 2007

Central Government vide notification No. L-40012/6/2002-IR (DU) dated 3-6-2002 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Department of Telecom, Chandigarh in terminating of services of Shri Tarsem Singh, I/R w.e.f. 28-2-99 is just and legal ? If so, to what relief the workman is entitled ?”

2. Case repeatedly called. None has put up appearance on behalf of the workman. Shri G. C. Babbar advocate for the workman submitted that workman petitioner is not appearing in this case since 21-9-06 till today on 6th dates. Court notices were issued and despite notices workman did not appear. His authorized

representative Shri O. P. Singh has already expired in 2005. It appears that workman is gainfully employed somewhere and not interested to pursue this reference.

3. In view of the above, since the workman is not appearing despite notice, no purpose will be served in keeping this case pending. Therefore, the present reference is returned for want of prosecution to the Central Government. File be consigned to record.

Chandigarh
24-4-2007

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1754.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 9/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-05-2007 को प्राप्त हुआ था।

[सं. एल-40012/267/2001-आई आर (डी. यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1754.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 9/2002) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 21-05-2007.

[No. L-40012/267/2001-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-1, CHANDIGARH

Case No. I. D. 9/2002

Shri Noor Mohammad, S/o Sh. Nabi Bux Ansari,
H. No. 212, Street No. 9, Shantinagar, Manimajra,
U T. Chandigarh-160001 ... Applicant

Versus

The Principal General Manager, Telecom, Telephone
Deptt., Sector-18, Chandigarh-160001 (U. T.)
... Respondent

APPEARANCES:

For the Workman : None

For the Management : Shri G. C. Babbar.

AWARD

Passed on 24th April, 2007

Central Government vide notification No. L-40012/267/2001-IR (DU) dated 31-12-2001 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Department of Telecom, Chandigarh in terminating of services of Shri Noor Mohammad, S/o Sh. Nabi Bux Ansari, Asstt. Line Officer w.e.f. 27-2-99 is just and legal ? If so, to what relief the workman is entitled ?”

2. Case repeatedly called. None has put up appearance on behalf of the workman. Shri G. C. Babbar advocate for the workman submitted that workman petitioner is not appearing in this case since 18-4-06 till today on 8th date. Court notices were issued and despite notices workman did not appear. His authorized representative Shri O. P. Singh has already expired in 2005. It appears that workman is gainfully employed somewhere and not interested to pursue this reference.

3. In view of the above, since the workman is not appearing despite notice, no purpose will be served in keeping this case pending. Therefore, the present reference is returned for want of prosecution to the Central Government. File be consigned to record.

Chandigarh

24-4-2007

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1755.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 325/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-05-2007 को प्राप्त हुआ था।

[सं. एल-40012/289/2000-आई आर (डी. यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1755.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 325/2000) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 21-05-2007.

[No. L-40012/289/2000-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-1, CHANDIGARH

Case No. I D. 325/2000

Shri Rajinder Singh C/o R. K. Sharma,
H. No. 372, Sector-20-A, Chandigarh-160001 (U. T.).
... Applicant

Versus

1. The Chief General Manager, Telecom, Punjab Circle, Sector-34, Chandigarh-160001 (U. T.).
2. The Principal General Manager, Telecom, Sector-18, Chandigarh-160001 (U. T.). ... Respondent

APPEARANCES:

For the Workman : None

For the Management : Shri G. C. Babbar

AWARD

Passed on 24th April, 2007

Central Government vide Notification No. L-40012/289/2000-IR (DU) dated 24-8-2000 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Chief General Manager, Telecom, Punjab Circle, Chandigarh and the Principal General Manager, Telecom, Chandigarh Distt. in ordering disengagement/termination of services of Shri Rajinder Singh a workman engaged through contractor Sh. R. K. Mittal w.e.f. 27-2-99 is just and legal ? If not, to what relief the workman is entitled and from which date ?"

2. Case repeatedly called. None has put up appearance on behalf of the workman. Shri G. C. Babbar advocate for the management submitted that workman petitioner is not appearing in this case since 20-9-06 till today on 6th date. Court notices were issued and despite notices workman did not appear. His authorized representative Shri O. P. Singh has already expired in 2005. It appears that workman is gainfully employed somewhere and not interested to pursue this reference.

3. In view of the above, since the workman is not appearing despite notice, no purpose will be served in keeping this case pending. Therefore, the present reference is returned for want of prosecution to the Central Government. File be consigned to record.

Chandigarh.
24-4-2007

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1756.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/अन्य न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 131/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-05-2007 को प्राप्त हुआ था।

[सं. एल-40012/559/2000-आई आर (डी. यू.)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1756.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 131/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 21-05-2007.

[No. L-40012/559/2000-IR(DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-1, CHANDIGARH

Case No. I D. 131/2001

Shri Jagtar Singh, S/o Sh. Hardev Singh, V. P. O.
Sanghol, Teh. Khamanon, Fatehgarh Sahib (Punjab)
... Applicant

Versus

The Chief General Manager, Telecom, Punjab Circle,
Sector-34, Chandigarh-160001 (U. T.).
... Respondent

APPEARANCES:

For the Workman : None

For the Management : Shri G. C. Babbar

AWARD

Passed on 30th April, 2007

Central Government vide Notification No. L-40012/559/2000/IR (DU) dated 13-3-2001 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Department of Telecom, Chandigarh in terminating of services of Shri Jagtar Singh, S/o Sh. Hardev Singh,

w.e.f. 27-2-99 is just and legal ? If so, to what relief the workman is entitled and from which date ?”

2. Case repeatedly called. None has put up appearance on behalf of the workman. Shri G. C. Babbar advocate for the management submitted that workman petitioner is not appearing in this case despite notice as Shri Arun Batra who was earlier representing the workman pleads no instructions and on his pleading no instructions court notice for today was issued to the workman. But despite notice none appeared on his behalf and it appears that workman is gainfully employed somewhere and not interested to pursue this reference.

3. In view of the above, since the workman is not appearing despite notice, no purpose will be served in keeping this case pending. Therefore, the present reference is returned for want of prosecution to the Central Government. File be consigned to record.

Chandigarh.
30-4-2007

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1757.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 11/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-05-2007 को प्राप्त हुआ था।

[सं. एल-40012/264/2001-आई आर (डी. यू.)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1757.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2002) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 21-05-2007.

[No. L-40012/264/2001-IR(DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE SHRI RAJESH KUMAR, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-1,
CHANDIGARH

Case No. I D. 11/2002

Shri Nirmal Singh, S/o Sh. Sohan Singh, V.P.O. Jainty
Devi, Near Mullanpur, Ropar-140901

... Applicant

Versus

The Principal General Manager, Telecom, Telephone
Deptt. Sector-18, Chandigarh-160001 (U. T.)

... Respondent

APPEARANCES:

For the Workman : None

For the Management : Shri G. C. Babbar

AWARD

Passed on 30th April, 2007

Central Government vide Notification No. L-40012/264/2001/IR (DU) dated 31-12-2001 has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Department of Telecom, Chandigarh in terminating of services of Shri Nirmal Singh, S/o Sh. Sohan Singh, Asstt. Lineman w.e.f. 27-2-99 is just and legal ? If so, to what relief the workman is entitled ?”

2. Case repeatedly called. None has put up appearance on behalf of the workman. Shri G. C. Babbar advocate for the management submitted that workman petitioner is not appearing in this case despite notice. It appears that workman is gainfully employed somewhere and not interested to pursue this reference.

3. In view of the above, since the workman is not appearing despite notice, no purpose will be served in keeping this case pending. Therefore, the present reference is returned for want of prosecution to the Central Government. File be consigned to record.

Chandigarh.
30-4-2007

RAJESH KUMAR, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1758.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, चण्डीगढ़ के पंचाट (संदर्भ संख्या 731/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-05-2007 को प्राप्त हुआ था।

[सं. एल-40012/402/99-आई आर (डी. यू.)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st May, 2007.

S.O. 1758.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 731/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 21-05-2007.

[No. L-40012/402/99-IR(DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case I. D. No. 731/2005

Registered on 1-9-2005

Date of Decision 26-3-2007

Abdesh Singh, S/o Shri Ram Nath, C/o Shri N. K. Jeet, President, Telecom Labour Union, Mohalla Hari Nagar, Lal Singh Basti Road, Bhatinda (Punjab)
... Petitioner

Versus

The General Manager, Telecom, Bhatinda (Punjab)
... Respondent

APPEARANCES:

For the Workman : Shri N. K. Jeet, AR

For the Management : Shri G. C. Babbar,
Advocate

AWARD

The workman continues to be absent. Management appears through Counsel.

It is on record that the workman has never appeared in this Tribunal in person. All along he had been appearing through his representatives, but neither on the last date nor today even his representatives has appeared. It has also been noticed that the workman was directed to produce his evidence on 16th May, 2006, but neither on the next date fixed for his evidence on 9th August, 2006 nor thereafter he produced any evidence. He himself has also not

appeared to prove his affidavit and to stand to the cross-examination of the Management. This shows that he has lost interest in his case. He has also failed to show that he was engaged as a workman by the Management; and that he had served in the office of S. D. O. P. Bhatinda from 1st April, 1994 till 1st March, 1999 and was getting wages at the rate of Rs. 2138. The claim made by him has been denied by the Management claiming that the workman was never engaged by them nor he ever served them. According to them they had an agreements with the contractors to supply the workforce to the Management, from time to time; and that the claim made by the workman is not maintainable. The affidavit filed by the workman is rebutted by the affidavit of the witness of Management. They have also placed on record copies of the agreements.

In view of the pleadings of the parties and want of evidence it cannot be said that the Management had engaged the workman Abdesh Singh; and that it was they who had terminated his services as is claimed. For this reasons the workman is not entitled to any relief. Therefore, the reference is answered against him holding that he is not entitled to any relief. Let the copy of this award be sent to the appropriate government for necessary action and file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1759.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 736/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-5-2007 को प्राप्त हुआ था।

[सं. एल-40012/400/99-आई आर (डी यू)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1759.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 736/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workmen, which was received by the Central Government on 21-5-2007.

[No. L-40012/400/99-IR(DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE**CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT-II, CHANDIGARH**

Shri Kuldip Singh, Presiding Officer

Case I.D. No. 736/2005

Registered on 2-9-2005

Date of Decision 30-3-2007

Jagsir Singh S/o Shri Shadi Ram,
C/o. Shri N.K. Jeet,
President, Telecom, Labour Union,
Mohalla Hari Nagar, Lal Singh Basti Road,
Bhatinda (Punjab) ... Petitioner

Versus

The General Manager,
Telecom ... Respondent

APPEARANCE :

For the Workman : Shri N.K. Jeet, AR

For the Management : Mr. G.C. Babbar, Advocate

AWARD

The parties are not present. The workman continues to be absent since 11th Dec., 2006. The record of the file shows that what to talk of his earlier conduct, as per the interim orders he did not attend the proceedings after the case was transferred to this Tribunal. Ultimately a notice, under R/C was issued to him on 16th May, 2006, in response to which he appeared but again absented from 11th Dec., 2006. It is also worth note that the signatures made by the workman on the affidavit, attested on 23rd August, 2006, and the one made on the authority letter on 1st August, 2000 do not seem to be of the same person. There seems to be some manipulation somewhere. The representative, who had been appearing for him, has also not appeared. On record, I find only the statement of claim, the reply of the Management, the rejoinder which is signed by the representative of the workman and the affidavit which does not seem to be signed by the workman. Despite directions, the workman has not appeared nor has produced any evidence in support of his claim.

The Government of India vide their order No. L-40012/400/99/IR(DU) dated 17th Feb., 2000 desired of this Tribunal to state whether the action of the Management of General Manager, Telecom, Bhatinda in terminating the service of Shri Jagsir Singh S/o Shadi Ram was legal and justified and if not to what relief the workman is entitled to. The workman by his statement of claim stated that he was engaged as workman in Telephone Exchange, Raman on 1st August, 1998, on a salary of Rs. 2138 and his services were terminated on 1st March, 1999, without notice, charge sheet, inquiry or compensation. The Management denied the allegation. According to them the workman was neither

engaged by them nor his services were terminated by the management. They had engaged Messrs. Deepak Kumar and others, as the contractors to provide labour to them and, therefore, the question of the engagement of the workman did not arise. They also took the plea that the department of Telecom was not an Industry, so not governed by the Industrial Dispute Act; and that the petition is not maintainable.

As stated earlier the workman has not produced any evidence in support of his claim. I have all my doubts that the affidavit tendered by him is that of the workman since the signatures made by him on the affidavit and on the authority letter, as mentioned above, are not same even to a naked eye. Even otherwise the affidavit has no value since the Management did not have the opportunity to cross-examine the workman about the facts claimed by him in his affidavit. Rather there is no evidence on record to show that the workman was engaged by the Management and it was they who had terminated his services w.e.f. 1st March, 1999. There is also no evidence to show that the workman had put in 240 days service for the Management during the period claimed by him. In the circumstances, it cannot be said that the workman was engaged by the Management and his services were terminated by them. The question of legality of any such order in the circumstances does not arise. Since the workman has utterly failed to make out his case, therefore, he is not entitled to any relief. The reference is answered against him holding that he is not entitled to any relief. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1760.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अश्व प्रजनन केन्द्र के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं.-II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 853/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-5-2007 को प्राप्त हुआ था।

[सं. एल-42012/207/90-आई आर (डी यू)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1760.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 853/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Equine Breeding Stud and their

workman, which was received by the Central Government on 21-5-2007.

[No. L-42012/207/90-IR(DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE

CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case I.D. No. 853/2005
Registered on 8-9-2005
Date of Decision 29-3-2007

Kalwant Singh S/o Shri Sohan Singh
R/o Village Piran Wali,
PO Nyoli Kalan,
District Hissar ... Petitioner

Versus

The Commandant,
Equine Breeding Stud,
Hissar ... Respondent

APPEARANCE

For the Workman : Shri Darshan Singh, AR
For the Management : Ms. Deepali Puri, Advocate

AWARD

The workman is stated to be dead. So far none of his LRs has come forward to make a claim for substitution as ~~the LRs of the deceased workman~~. On the last date, Mr. Raj Kaushik Advocate, who was representing the workman earlier stated that he has been authorized to appear for the LRs and sought time to bring them on record. He was allowed to do it, but today he stated that he has no instructions to appear. The Tribunal is not in possession of any evidence to show that the workman has left behind some LRs and they are entitled to be substituted. Therefore, the case is being disposed of in these circumstances.

The Government of India vide their order No. L-42012/207/90-IR(DU) dated 30th November, 1991, desired of this Tribunal to adjudicate upon whether the Equine Breeding Stud, Hissar is an Industry under the I.D. Act and if so whether the Management was just, fair and legal to terminate the services of Shri Kalwant Singh, a Daily rated worker. They have further desired to know whether the action of the Management to deny equal wages for equal work to the said workman was just and fair if not, to what relief the workman is entitled to?

On the receipt of the reference, notices were issued to the parties who filed their respective pleadings and

supported the same with the affidavits of the workman and that of commandant of the Management Stud. Col. R.R. Yadav. The parties also placed on record photo copies of a number of documents. The case was in the process of taking the evidence of the workman when it was stated, on the last date, that the workman is dead. Till then the workman had not led any evidence. So much so he had not proved his own affidavit. The turn of the Management was to come next to prove their part of the case. Since the workman is dead and nobody has come forward to be substituted as his LRs, therefore, the Court is at loss to reply the reference, made by the Government of India effectively. As it stands today, there is no clear evidence that the workman was engaged by the management; and that it was they who had terminated his services. There is also no evidence, for and against the proposition, that the Management is not an Industry. However, as the law stands today, in the face of the judgement, in the case of Bangalore Water Supply and Sewerage Board V/s A. Rajappa reported as 1978 1LLJ 349, the Management cannot claim to be not an Industry. There is also no evidence, for and against, to show that the management had denied the workman equal wages for equal work. In the circumstances the workman is not entitled to any relief. The reference is answered against him holding that he is not entitled to any relief. The award is passed. Let a copy of this award be sent to the appropriate govt. for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1761.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या सी जी आई टी ए 110/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-5-2007 को प्राप्त हुआ था।

[सं. एल-40012/188/96-आई आर (डी यू)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1761.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGITA 110/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Department of Telecom and their workman, which was received by the Central Government on 21-5-2007.

[No. L-40012/188/96-IR(DU)]
SURENDRA SINGH, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL AT AHMEDABAD****PRESENT:**

A.A. Lad, Incharge/Presiding Officer, Mumbai

Reference No. CGITA/110 of 2004

**Employers in Relation to the Management of Telecom
Department, Mehsana**

1. The General Manager,
Indian Post & Telegraph Deptt.
Padmavati Complex,
Mehsana
2. The General Manager,
Telecom,
Super Market,
Mehsana

V/s.

Their Workmen :

Shri Mohmad Sarfuddin N. Ansari,
C/o. Anwarhakk Ansari,
Telephone Office,
Vasai Dabhala,
Tal. Vijapur,
Distt. Mehsana

APPEARANCE

For the Employer : Mr. N.K. Trivedi, Advocate

For the Workman : Mr. Z.M. Kadri, Advocate

Mumbai, dated 18th April, 2007

AWARD

The Government of India, Ministry of Labour by its Order No. L-40012/188/96-IR(DU) dated 15-9-1998 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Department of Telecom in terminating the services of Sh. M.N. Ansari, Muster Roll workman of Kalol Division is legal and justified? If not, what relief the workman is entitled to?"

2. To support the subject matter in the reference, Second Party filed Claim Statement at Ex-4 stating that, he joined First party as a casual workman in 1995-96 and completed 289 days. Even he completed 287 days in 1986-87, and 87-88. According to him he is eligible to be made permanent. However First party has not considered it and without following due process of law i.e. without giving

notice, paying salary of one month in lieu of notice and offering other benefits terminated him. The termination dt. 23-1-1995 on Second party is against provisions of Industrial Disputes Act which required to quash and set aside with direction to First Party to reinstate him and give benefits of back wages.

3. This is disputed by the first party by filing reply at Ex-6 stating that, reference is not maintainable and deserves to be dismissed. It is also contended that, reference is bad in law and this Tribunal has no jurisdiction to entertain the grievance of the second party. It is also stated that, dispute is not coming within the subject matter of the Industrial Disputes Act and State Government is not appropriate Government but it is the Central Government.

4. It is further stated that, said second party was appointed on daily wages and as such, he has no locus standi to claim permanency. It is also stated that, Claim statement filed by him is false one. Since Second party was working as casual labourer, he cannot claim permanency. Even he did not apply for permanency as well as prayed to confirm in the employment. It is stated that, this second party never turned up after November 1998 and has abandoned the job without any reason. So it is submitted that, reference sent of second party of removal from muster roll and for permanency has no meaning and deserves to be rejected.

5. In view of above pleadings following issues arise for determination which are answered against it:

- | | |
|--------------------------------------------------------------------------------------------------------|---------------------|
| 1. When Second party has completed 240 days in each calendar year of his employment period ? | Yes |
| 2. Does he prove that, he was illegally prevented in reporting for duty which amounts to termination ? | Yes |
| 3. Is he entitled for reinstatement ? | Yes |
| 4. What order ? | As per order below. |

REASONS**Issue No. 1 :**

6. As far as working of Second Party with First Party in 85-86, 86-87, 87-88, and 88-89 is concerned is not disputed. The only stand taken by First party is that, he was taken on daily wages basis. However service rendered by him as per his case in above years reveals that, he served for more than 240 days for three consecutive years and to support that he deposed at Ex-9 and examined one witness at Ex-20 where both have stated that, second party worked for First party for three consecutive years for more than 240 days and claim permanency. Even working of Second party with First party in those three years for more

than 240 days is not disputed as per first party's witness deposition Ex-25 where he admits the working of second party with first party.

7. The defence taken by First party is that, he was a daily wager and cannot claim permanency. However working of second party with first party was not disputed. When that is the fact, I conclude that, second party qualify himself as a deemed permanent employee of the first party since he completed 240 days in 1985-86, 86-87, 87-88. So I answer this issue to that effect.

Issue Nos. 2 & 3 :

8. It is further case of second party that, without giving notice, offering retrenchment compensation and following seniority rules which are applicable to employees like this and provisions of Section 25(F) of Industrial Disputes Act, first party cannot take such action abruptly. Even it is not case of first party that, they gave notice or offered salary of one month in lieu of notice or offered retrenchment compensation as well as followed seniority rules while stopping second party. The stand taken by first party that, since he was taken on daily wages his dispute does not fall in Industrial Disputes Act. Industrial Disputes Act is not applicable to this dispute and second party cannot claim permanency. Besides, it was defence of first party that, State Government is not appropriate Government.

9. As far as contention taken by first party of appropriate Government, in my considered view, when matter is referred by Central Government, Labour Ministry now that stand has no meaning and does not require to be discussed and consider as well as decided separately.

10. As far as stand taken of first party treating second party as a daily worker and provisions of Industrial Disputes Act are not applicable is concerned, the evidence led by first party does not disclose as to why said cannot be made applicable to the second party and why second party should be treated and taken on daily wages ? In the absence of it, one has to conclude that, though second party was appointed on daily wages, even he completed 240 days in three calendar years consecutively, I am of the opinion that, he is entitled for protection under Industrial Disputes Act and Industrial Disputes Act is applicable to the employees like this type. As stated above no notice was given by first party nor retrenchment compensation offered, in this scenario, decision taken by first party in stopping second party requires to be considered illegal. Accordingly, I declare that, decision of the first party in stopping second party from 1995 is nothing but illegal termination.

11. The Written Arguments were submitted by second party's advocate at Ex-25 with list of citations. (1) Citation published in 2007 (112) FLR page 579 of Jharkhand High Court, (2) Citation published in 2007 (112) FLR page 605 of Bombay High Court which reveals that, workman

work for more than 240 days can claim permanency which supports the case of second party and (3) Citation published in 1987 AIR (2342) reveals that, if retrenchment compensation is not paid, such termination is not legal. Even that view is supported by decision published in 2007 (112) FLR page 518.

12. The termination dated 23-1-1995 challenged in reference is ripe for decision in 2007 for number of reasons. Initially it was with Gujarat State. Then it was referred to Central Government. Besides it was initially with State Industrial Tribunal, Ahmedabad and then transferred to CGIT, Ahmedabad and like that matter traveled for which delay is there. Besides, it is to be noted that, second party is not working with first party from January 1995. First party is a public body. When second party did not work with first party from 1995 and when it is a public body, I do not find it just and proper to award entire back wages, though I conclude that, stopping of second party from January 1995 is illegal. Moreover no evidence is led by second party about his financial crisis as a result of termination w.e.f. January 1995. In this scenario, I feel awarding lump-sum compensation for Rs. 25,000 will meet ends of justice as Second party is fighting for his grievances from 1995.

13. In view of discussions made above, I conclude that, reference should be allowed partly. Hence the order :

ORDER

- (1) Alleged termination of January 1995 is set aside with direction to First party to reinstate Second party Shri Mohd. Sarfuddin Ansari on his post.
- (2) First party to pay lump sum compensation Rs. 25,000 to Second party Mohd. Sarfuddin Ansari in lieu of entire back wages.
- (3) No costs.

Date: 18-4-2007

A.A. LAD, Incharge/Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1762.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.पी.सी.एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, मुम्बई के पंचाट (संदर्भ संख्या 2/4 का 2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-5-2007 को प्राप्त हुआ था।

[सं. एल-42012/166/2002-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1762.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Complaint No. CGIT-2/4 of 2006) of the Central Government Industrial

Tribunal-com-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Nuclear Power Corporation of India and their workmen, which was received by the Central Government on 21-5-2007.

[No. L-42012/166/2002-IR(C-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT:

A.A. Lad, Presiding Officer

Complaint No. CGIT 2/4 of 2006

in

Reference No. CGIT-2/80 of 2002

PARTIES:

Tarapur Atomic Power Station Employees
Association (TAPSEA),
PO. TAPP, Tal. Palghar,
Distt. Thane 401 504 ... Complainant

V/s.

1. The Director (HR),
Nuclear Power Corporation of India Ltd.,
12th Floor, North Wing,
Vikram Sarabhai Bhavan,
Anushakti Nagar,
Mumbai 400 094
2. Site Director,
Tarapur Maharashtra Site,
Tarapur, P.O. TAPP, Tal. Palghar,
Distt. Thane 401 504.
3. Station Director,
Tarapur Atomic Power Station 1 & 2,
P.O. TAPP, Tal. Palghar,
Distt. Thane 401 504 ... Opponents

APPEARANCES

For the Complainant : Mr. M.C.N. Reddy, Representative

For the Opponents : H.K. Bhalerao, Advocate.

Mumbai, Dated the 13th April, 2007.

AWARD

1. Complainant has filed this complaint under Section 33-A of Industrial Disputes Act stating that reference is pending for adjudication. Meanwhile Corporate Office of the Opponent by order dt. 3-10-2006 has directed Site Director Tarapur to grant site location allowance w.e.f.

1-10-2006 and deduct the cash of the concessions such as free electricity units beyond 30 to 75 units, subsidy beyond the free electricity bills, concession in licence fee, compensatory allowance and tribal area allowance. Subject matter of said deduction is covered in the dispute raised by the Complainant. Besides said decision was objected by complainant by letter dt. 6-10-2006. When reference was pending the above referred decision of deduction was taken without permission of the Court. So it is prayed that Opponent be directed not to withdraw the concession given since 1969 and ordered to extend it as it was.

2. When complaint was posted for filing reply both parties pursued to take complaint before Lok Adalat and by Ex-8 and 9 they settled the subject matter out of Court in the Lok Adalat dt. 13-4-2007. Hence the order :

ORDER

Vide Exh-8 and 9 Complaint is disposed of in Lok Adalat.

Date: 13-4-2007

A.A. LAD, Presiding Officer

Complaint No. CGIT 2/4 of 2006

in

[Reference No. CGIT-2/80 of 2002]

Ex-8

Shri H.K. Bhalerao, Advocate with

Shri Utpal Kumar Present for Management

Shri MCN Reddy Present for Association.

The Association withdraws the complaint by its application dated 15-2-2007. The application is taken on the record.

Submitted to the Hon'ble Tribunal.

Sd/- Sd/- Sd/-

(H.K. Bhalerao) (Utpal Kumar) (M.C.N. Reddy)
13-4-07 13-4-07

Sd/- Sd/-

(Jaiprakash Sawant) (L.K. Pande)
Advocate on Panel Representative

Sd/-

(S.N. Mishra)

Seen

Sd/-

Presiding Officer
13-4-07

Exh.-9

नई दिल्ली, 21 मई, 2007

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI**

Complaint No. CGIT 2/4 of 2006

Tarapur Atomic Power Station
Employees Association (Tapsea),
Tarapur

... Complainant(s)

1. Director (HR), NPCIL, Mumbai
2. Site Director, T M Site, Tarapur
3. Station Director, TAPS 1 & 2, Tarapur

... Opponent(s)

**APPLICATION OF THE COMPLAINANT (S) UNION
ABOVE REFERRED**

Seen

Sd/-

Presiding Officer :

May it Please Your Honour :

1. In the above matter, the Opponents have agreed to pay Site Location Allowance, which was not being paid earlier by the Opponents, by wrongly linking to the issues being adjudicated upon by the Hon'ble Tribunal under reference CGIT No. 2/80 of 2002.
2. The Opponents have even paid arrears and maintained the status quo with regards to the agreement dated 17-8-2000 with a view to maintain industrial harmony in an establishment like Tarapur Atomic Power Station, the Complainant Union agree to withdraw the above complaint.

Orders may, therefore be passed accordingly and the above complaint be disposed of.

At Mumbai,

Dated 15th day of Feb. 2007.

Sd/-

(V. Narayanan)
Authorised Representative

Sd/-

(M.C.N. Reddy)
General Secretary**VERIFICATION**

I, M.C.N. Reddy, General Secretary of the Tarapur Atomic Power Station Employees Association do state on solemn affirmation that whatever stated above is true to my knowledge and belief and that I have not suppressed any material information from this Hon'ble Tribunal.

At Mumbai,

Dated 15th day of Feb. 2007

Sd/-

(M.C.N. Reddy)
General Secretary

Identified by me :

Sd/-

(V. Narayanan)
Authorised Representative

का.आ. 1763.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, आसनसोल के पंचाट (संदर्भ संख्या 67/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-5-2007 को प्राप्त हुआ था।

[सं. एल-22012/103/1995-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1763.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/1995) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workman, which was received by the Central Government on 21-5-2007.

[No. L-22012/103/1995-IR(C-II)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

Present :

Sri Md. Sarfaraz Khan, Presiding Officer

Reference No. 67 of 1995

PARTIES :

The Agent,
Kumardihi 'A' Colliery of E.C.L.,
Ukhra, Burdwan

Vs.

The Joint General Secretary,
Colliery Mazdoor Union,
Ukhra, Burdwan

REPRESENTATIVES:

For the Management : Sri P.K. Das, Advocate.

For the Union (Workman) : Sri M. Mukherjee, Advocate

Industry : Coal

State : West Bengal

Dated the 4-4-2007

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India

through the Ministry of Labour vide its Letter No. L-22012/103/95-IR(C-II) dated 21-11-1995 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Kumardihi (A) Colliery under Bankola Area of M/s. E.C.Ltd, PO : Ukhra, Distt. : Burdwan (W.B.) in dismissing Shri Bancha Ram Nayak, Ex. U.G. Loader w.e.f. 20-3-91 is justified or not. If not, what relief the workman concerned is entitled to?”

2. On having received the Order No. L-22012/103/95-IR(C-II) dated 21-11-95 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 67 of 1995 was registered on 5-12-95 and accordingly an order to that effect was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were issued to the respective parties. Sri Manoj Mukherjee, Advocate and Sri P.K. Das, Advocate appeared in the court to represent the union and the management respectively and they filed their written statement in support of their case.

3. In brief compass the case of the union as set forth in its written statement is that Sh. Bancha Ram Nayak was a permanent employee as U.G. Loader of Kumardihi ‘A’ Colliery of M/s. E.C.Ltd.

4. The main case of the union is that Sh. Bancha Ram Nayak was compelled to remain absent from his duty w.e.f. 30-4-90 on account of his mental disbalance and he was undergoing medical treatment at Ranchi Mansik Arogyashala, Kanke and due to such absenteeism the management has dismissed the delinquent employee from service on 20-3-91.

5. The further case of the union is that no enquiry was held before dismissing the said workman or if held, the workman was not given any opportunity to defend himself before the enquiry officer nor he was intimated that enquiry was going to be held against him.

6. It is also the case of the union that before issuing dismissal order the management did not supply the copy of the enquiry proceeding, its findings and proposed punishment to the workman and as such the said order of dismissal is void, illegal, ab initio and the same is fit to be set aside on that score alone.

7. It is further claimed that by awarding capital punishment the management has snatched away bread of workman in this day of acute unemployment. The quantum of punishment is claimed to be too harsh and disproportionate to the nature of the alleged misconduct.

The union has sought relief for setting aside the order of dismissal and to direct the management to reinstate the workman concerned with full back wages along with other consequential benefit.

8. On the other hand the defence case of the management as per its written statement in short is that the instant dispute as raised by the union is entirely misconceived and the reference as referred by the appropriate govt. for adjudication before the Tribunal is without any bonafide ground or reasons and there exists no Industrial Dispute in the matter of dismissal of the workman concerned w.e.f. 20-3-91.

9. It is further defence case of the management that the workman concerned remained absent from duty w.e.f. 30-4-90 without any prior permission and without satisfactory cause resulting in issuance of chargesheet dated 9-5-90 under the provisions of Model standing Order applicable to the establishment vide clause 17(1)(d) and 17(1)(n). The workman concerned is said to have failed to submit any explanation to the said chargesheet issued to him by the management. Consequently an independent enquiry officer was appointed by the management who having conducted and completed the enquiry proceeding submitted its report to the competent authority. The workman concerned in spite of all reasonable opportunity failed to appear before the enquiry officer and due to his non-appearance the ex-parte enquiry proceeding was held. The enquiry officer after concluding the enquiry proceeding submitted its report to the competent authority who having considered the enquiry proceeding together with its report, chargesheet and other connected papers dismiss the delinquent workman.

10. The management has denied the averment made in para 3 of the written statement of the union and has stated that concerned workman never suffered on account of his mental disbalance and had ever underbone medical treatment at Ranchi Mansik Arogyashala, Kanke. The workman had never reported before the colliery management during the entire period of absence nor sent any written information stating the reason of his absence as such the action of the management is claimed to totally justified and the punishment is neither shocking or disproportionate in any manner. So the union is not entitled to seek any relief as claimed for.

11. From perusal of the order sheets of the record it transpires that on 28-1-98 a hearing was made on preliminary point and the validity and fairness of enquiry proceeding was held to be valid. The learned lawyer of the union had categorically admitted that there is no invalidity in the enquiry proceeding. Thereafter the record was fixed for final hearing on merit which was finally heard on 27-4-05 and the award was kept reserved for order.

12. In view of the pleadings of both the parties and the materials available on the record I find certain facts

which are admitted one. So before entering into the discussion of the merit of the case I like to mention those facts which are admitted by the parties.

13. It is admitted fact that the delinquent employee Sri Bancha Ram Nayak, U.G. Loader was a permanent employee of Kumardihi 'A' Colliery of the M/s ECL.

It is the next admitted fact that the workman concerned was absent from his duty with effect from 30-4-90 without any leave or prior permission and information of the management and accordingly he was charge sheeted for his unauthorized absence from duty w.e.f. 30-4-90 and for habitual absenteeism as well.

14. It is the admitted case of the parties that due to non appearance of the workman concerned an ex parte domestic enquiry was conducted by the management in which the enquiry officer had held him guilty for committing the misconduct of unauthorized absence for the said relevant period in question together with the misconduct of habitual absenteeism for which the workman concerned was dismissed by the competent authority from his service on 20-3-91.

15. It is also directly or indirectly admitted case of the parties that the workman concerned never reported before the colliery management during the entire period of absence nor any written intimation stating the reason of his absence was submitted by the workman concerned to the management.

16. It is the settle principle of law that the facts admitted need not be proved. Since all the aforesaid facts are admitted one So I do not think proper to discuss the same in detail.

17. The management in para 1 and 2 of its written statement has taken the plea that the instant reference is bad in the eye of law as the same is not legally maintainable. It is also pleaded that in the prevailing facts and circumstances of the case the dispute is misconceived one. But the aforesaid issue was neither raised nor pressed by the management during the course of the hearing of the said reference. The management has neither examined any oral witness nor tendered even a chit of paper in support of its plea. As such I do not find any defect in the maintainability of the said reference and the facts of the case very well come under the purview of Industrial Disputes Act, 1947. The Govt. of India through the Ministry of Labour has rightly referred the dispute to this Tribunal for its adjudication and as such this issue is decided in favour of the union and against the management.

18. On perusal of the record it transpires that none of the parties has examined any oral witness in support of their case. The record further goes to show that the management has produced some Xerox copies of certain documents. The Xerox copies of the charge sheet, enquiry proceeding along with its findings, order of dismissal, extract of attendance sheet, postal receipts notice of enquiry

and paper cuttings of the publication of the notice have been filed on behalf of the management. Likewise the union had filed the medical certificate of fitness dated 21-11-92 granted by a doctor along with the prescriptions for the treatment dated 14-7-90, 18-2-91 and 22-2-92. These documents were filed on the last day of argument of the case i.e. on 27-4-05. The documents filed by the side of the management are official letters which are admitted one as the contents and genuineness of the same have not been challenged by the side of the union where as the management has denied in para 11 of its written statement that the workman concerned had ever suffered on account of his mental disbalance and he never undergone medical treatment at Ranchi Mansik Arogyashala, Kanke.

19. From perusal of the record it transpires that the enquiry officer had sent the notice of enquiry to the workman concerned at his home address by registered post as per 'B' form on 27-7-90, 3-10-90, 5-11-90 and 29-12-90 giving details of place of enquiry, time and date of enquiry to be held in respect of the charge leveled against him. Three postal receipts notices of enquiry of different date and the cuttings of the paper publication in respect of the last date and of enquiry fixed. Those all documents go to show that due and proper information about the scheduled date of enquiry was sent to the workman concerned which were returned undelivered. The service of notice will be deemed to be just, proper and legal in the eye of law, when a communication is sent on proper address it is presumed that it was received in due course of time. Through the notices date, time and place of enquiry was duly intimated to the workman concerned. So the plea of the workman that no opportunity of hearing was given to him does not appear to be cogent and convincing. Besides this during the time of hearing on the preliminary point the learned lawyer for the union admitted that there was no invalidity in the enquiry proceeding and as such the enquiry was held to be just, fair and proper. It is further clear from enquiry proceeding and the findings of the enquiry officer that one Manik Chand Gorai, Time keeper and Sri S.K. Ganguly, another staff of the management were examined and they had given their statement before the enquiry officer. Both the witnesses have categorically stated that the delinquent employee was unauthorizedly absent from his duty w.e.f. 30-4-90 to up to date without any prior permission or information and without any satisfactory cause. They have further stated that the workman concerned is a habitual absentee. The G & C forms were also submitted in support of their contention which indicates that the workman concerned had only 77 attendance up to 29-4-90. The workman is said to be still absent from his duty. Leave record was also produced before the enquiry officer in order to show that the delinquent employee had not applied for any leave. Apart from this the service record was also produced which go to show the past blemish record of the workman concerned.

20. Having gone through the entire facts circumstance, enquiry proceedings along with its report I find that the workman concerned was admittedly absent from his duty w.e.f. 8-7-96 to 19-11-96 i.e. about four months continuously without any prior permission and information to the management. The enquiry officer has rightly held him guilty for habitual absenteeism and an unauthorized absence from duty during the said relevant period for which the workman concerned definitely deserves some suitable punishment for the alleged misconduct as per the provision prescribed in the Model Standing Order applicable to the establishment.

21. Now the only main point for consideration before the court is to see as to how far the punishment of dismissal awarded to the delinquent employee by the management is just, proper and proportionate to the alleged proven nature of misconduct.

22. Heard the learned counsel of both the parties in detail on the aforesaid point in question. It was submitted by the side of the union that it is a simple case of unauthorized absence and the absence from the duty during the relevant period is duly explained and the reasons of absence supported with the prescription and the medical certificate have been found to be sufficient and relevant one. It is further submitted that the medical certificate and the prescription granted by the Doctor Tushar Kanti Ganguli, Consulting Neuro Psychiatrist, Ranchi Mansik Arogya Shala, Kanke, Ranchi, Bihar to show that the workman concerned was suffering from Dyothymic Disorder (Mental illness) and was under his treatment for the said disease w.e.f. 10-3-90 to 21-12-92. It was also submitted that the charges levelled against the workman concerned can't be said to be a gross misconduct and in that context the attention of the court was drawn towards the provision of the Model Standing Order where the extreme punishment prescribed is dismissal as per the gravity of the misconduct and it was claimed that the extreme penalty can not be imposed upon the delinquent workman in such a minor case of alleged misconduct.

23. On the other hand the learned lawyer for the management submitted that it is not a simple case of unauthorized absence for a short period rather the workman was absent from his duty w.e.f. 30-4-90 to 21-11-92 without any sanctioned leave, without prior permission and information to the management. Besides this he was also charge sheeted and held guilty for the misconduct of habitual absenteeism. The workman concerned has got chequered conduct. So far the unauthorized absence in concerned, several times he was suspended for his misconduct but he did not rectify himself and went on repeating the same misconduct. So in view of the aforesaid facts and circumstances of the case the punishment is just and proper and the same can't be said to be disproportionate.

24. From the perusal of the record it transpires that the workman concerned has been charge sheeted for unauthorized absence w.e.f. 30-4-90 continuously without permission and without satisfactory cause for more than 10 days under clause 17(1)n and for habitual without leave and without sufficient cause under Section 17(1)d of the Model Standing Order applicable to the establishment. The union has taken the plea in para 3 of its written statement that Bancha Ram Nayak was compelled to remain absent from his duty w.e.f. 30-4-90 on account of his mental disbalance and he was undergoing mental treatment at Ranchi Mansik Arogya Shala, Kanke and in support of the said contention a medical fitness certificate granted by one Dr. Tushar Kanti Ganguly of Ranchi Mansik Arogya Shala has been filed. It is mentioned therein that the workman concerned was under his treatment for mental illness w.e.f. 10-3-90 to 21-11-92. Three prescriptions starting from 14-7-90, 18-2-91 and 27-2-92 has also been filed. There is no prescription to show that the workman concerned was examined or treated w.e.f. 10-3-90 by the said doctor. None of the prescription covers the period of 30-4-90 to 9-5-90 or up to 13-7-90 for which the workman has been charge sheeted for an unauthorized absence without any leave, prior permission or information to the management. There is no explanation to justify the absence from duty for the said relevant period in question. There is vital contradiction between the period of treatment by the doctor and the treatment prescription. As such the medical fitness and the prescription of treatment starting w.e.f. 14-7-90 beyond the period of absence is not at all helpful to the delinquent employee. This medical fitness certificate together with the treatment prescriptions were produced in the Court at the very fag end of the argument of this case. This aspect of the fact itself creates doubt on the existence of these certificates. I failed to understand as to why these documents if available, were not filed or produced in the court earlier. The management could not get the opportunity to rebut the same. The so called medical certificate relied upon and produced are all certificates which are obtained to resume the job to show his fitness. There are no medical certificates which are produced during the course of the period when he was subsent from duty to show that he was in fact suffering during that period from any such disease or mental depression. The subsequent certificate produced almost after a long span of time by the workman to indicate his fitness can not be a ground or justification for remaining absent for 2 years and 8 months. In that view of the matter the so called justification relied upon has no basis whatsoever on the ground that he was mentally unfit. Accordingly the aforesaid contention of the learned counsel of the workman are fit to be rejected.

25. The enquiry officer and the witnesses of the management have clearly stated that two times he was suspended for his unauthorized absence. The fact is also admitted by the union during course of the argument.

Besides this the service record of this workman is also not good as his attendance during the year 1989 is only 77 days and only 35 days in 1990. As per the findings of the enquiry officer the workman was suspended lot of times for unauthorized absence but there is no improvement. In the present case the workman has already been warned in past even suspended several times. In spite of the same he continues to be a habitual offender by continuously remaining absent. In the aforesaid light of the fact the awarding of penalty of dismissal cannot be treated as disproportionate or shocking the conscience of the court.

26. The scope of interference with punishment awarded by the disciplinary authority is very limited and unless the punishment is shockingly disproportionate the court can not interfere with the same and the employee having failed to show any mitigating circumstances in his favour the punishment awarded by the authorities can not be characterized as disproportionate or shocking.

27. In view of the above facts, circumstance, evidence and the discussion made above I am satisfied to hold that the punishment of dismissal awarded to the delinquent employee is just, proper and proportionate to the alleged proven misconduct as such it is hereby

ORDERED

that let the "reference" be and the same is dismissed on contest. Send the copies of the award to the Ministry of Labour, Govt. of India, New Delhi for information and needful. The reference is accordingly disposed of.

MD. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1764.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई. सी. एल. के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, आसनसोल के पंचाट (संदर्भ संख्या 4/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-05-2007 को प्राप्त हुआ था।

[सं. एल-22012/265/1999-आई आर (सीएम-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1764.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 4/2000) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ECL and their workmen, which was received by the Central Government on 21-05-2007.

[No. L-22012/265/1999-IR(CM-II)]
AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Sri Md. Sarfaraz Khan, Presiding Officer

REFERENCE No. 4 of 2000

PARTIES:

The Agent, Kalipahari (R) Colliery, ECL.

Versus

The Organising Secretary, Colliery Mazdoor Sabha,
G. T. Road, Asansol, Burdwan.

REPRESENTATIVES:

For the Management : Sri P. K. Goswami,
Advocate

For the Union : Sri K. D. Prasad,
(Workman) Advocate

INDUSTRY : Coal

STATE : West Bengal

Dated the 21-2-2007.

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Government of India through the Ministry of Labour vide its letter No. L-22012/265/99-IR (C. M. II) dated 6-1-2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management in not regularizing Shri Benode Pandey as Cap Lamp Fitter from Lamp Cleaning Mazdoor is justified? If not, what relief the workman is entitled to get?"

After having received the Order No. L-22012/265/99-IR (CM. II) dated 6-1-2000 of the aforesaid reference from the Govt. of India, Ministry of Labour, New Delhi, for adjudication of the dispute, a reference case No. 4 of 2000 was registered on 18-1-2000/10-10-2001 and accordingly an order to that effect was passed to issue notices to the respective parties through the registered post directing them to appear in the court on the date fixed and file their written statements along with the relevant documents and a list of witnesses in support of their case. In pursuance of the said order notices were issued to the party concerned by the registered post. Sri P. K. Goswami, Advocate and Sri K. D. Prasad, Advocate appeared in the Court to represent the Management and the Union respectively and the Union filed the written statement in support of its case.

From the perusal of the record it transpires that the case was fixed for filing written statement on behalf of the Management, but the same could not be filed even after several adjournment. It is further clear from the record that the Union left taking any step in its behalf w.e.f. 21-9-06. Again fresh notice was issued to the union which was received by the Union on 2-8-06. But in spite of the personal service of the notice nobody turned up to take any suitable step in this case. These all facts and circumstances go to indicate that the union has lost its interest and does not want to pursue the record. In the prevailing facts and circumstances of the case it is not proper to keep the record pending any more in anticipation of the appearance of the union to take suitable step on its behalf. As such it is hereby

ORDERED

that let a "No Dispute Awarded" be and the same is passed. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

Md. SARFARAZ KHAN, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.भा. 1765.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकॉम फैक्ट्री के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, मुम्बई के पंचाट (संदर्भ संख्या कंप्लेंट नं. सी जी आई टी-1/3 ऑफ 2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-05-2007 को प्राप्त हुआ था।

[सं. एल-40011/12/2002-आई आर (डी. यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1765.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. Complaint No. CGIT-1/3 of 2004) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Telecom Factory and their workmen, which was received by the Central Government on 21-05-2007.

[No. L-40011/12/2002-IR(DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT:

Justice Ghanshyam Dass, Presiding Officer

COMPLAINT NO. CGIT-1/3 OF 2004

IN

Reference No. CGIT-62 of 2003

PARTIES:

National Federation of Telecom Employees

B. S. N. L. Union ... Complainants

Versus

Telecom Factory

... Opposite Party

APPEARANCES:

For the Management : Mr. M. B. Anchan, Adv.

For the Workman : Ms. Rajnana Todankar, Adv.

Holding for Shri J. Sawant, Adv.

State : Maharashtra

Mumbai dated the 3rd day of May 2007

AWARD

1. This is a complaint under Section 33 of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act) by the The National Federation of Telecom Employees B. S. N. L. Union, Circle Office, Telecom Factory Circle, Deonar against Telecom Factory BSNL Deonar, Mumbai.

2. It is alleged that despite the pendency of the Reference CGIT-1/62 of 2003 the Management of B. S. N. L. has issued a notice dt. 23-3-2004 informing the workmen availing of subsidized departmental but transport facility at a increased rate w.e.f. 1-4-2004, which means a change of service conditions. This action is totally illegal in view of the pendency of the aforesaid reference in which the Tribunal has to consider the following terms of reference :

"Whether the action of the Management of Telecom Factory, Deonar, Mumbai in discontinuing the Transport allowance w.e.f. 31-10-2001 to its employees without following any legal provisions is legal and justified? If not, to what relief the workmen concerned are entitled to?"

3. The matter is contested by Telecom Factory which has filed the written statement dt. 15-4-2004. It is alleged that the National Federation of Telecom Employees Union was not a party to the aforesaid reference and this Union has no locus standi to move the complaint. Further the increase in subsidized Bus Transport is not a change in service condition and hence, the complaint is not maintainable. Further, the terms of reference of CGIT 62 of 2003 is different to the matter involved in the present complaint and for this reason also the complaint is not maintainable.

4. The following issues were framed :

- (1) Whether the Opponent Management has contravened the provisions of Section 33 of the Industrial Disputes Act, 1947 by issuing the Notice dated 23-3-2004 for increase in bus fare during the pendency of adjudication proceeding in Reference No. CGIT-I/62 of 2003 ?

- (2) What orders ?

5. The Union filed the affidavit of Shri A. G. Kamble in lieu of his examination in chief in support of the complaint. He has been cross examined by the learned counsel for the Management.

6. The Management has filed the affidavit of Shri V. Narayanan, in lieu of his examination in chief. He has been cross examined by the learned counsel for the Union wherein he has admitted that he had deposed in evidence in CGIT-62 of 2003 that at the instance of National Federation of Telecom Employees BSNL Union, the Central Government has referred this Industrial Dispute.

7. I have heard the learned counsel for the parties and perused the written submissions made by the learned counsel for the management.

8. FINDINGS:

The main emphasis is being given by the learned counsel for the Management on the point that the Reference No. 62 of 2003 has already been decided by this Tribunal vide Judgement order dt. 21-11-2006 and hence, the present complaint does not survive.

9. I have perused the judgement of the CGIT-62 of 2003. It has been held therein that stoppage of Transport allowance has been rightly made after following due procedure and issuance of Notice under Section-9 of the Act. However, the Management has not been held entitled to recover the Transport allowance already paid to the workman since, the notice under Section 9-A of the Act could not be implemented with retrospective effect.

10. In this view of the matter, now the claim of subsidized Transport allowance does not survive and that being so the management has a right to increase the Transport charges in accordance with law but it should not have been made by the Management during the pendency of the aforesaid reference.

11. However, looking to the facts and circumstances of the instant matter, I conclude that the complaint needs no action at this juncture and the same is hereby dismissed.

Justice GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1766.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कॉरपोरेशन बैंक के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध

में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 7/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्राप्त हुआ था।

[सं. एल-12012/190/2004-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1766.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 7/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Corporation Bank, and their workmen, which was received by the Central Government on 17-05-2007.

[No. L-12012/190/2004-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

PRESENT:

Shri A. R. Siddiqui, Presiding Officer

C. R. No. 7/2005

I Party:

Shri Paul Richard D'Souza,
S/o Douis Souza,
R/o Raghavendra Colony,
Sakleshpura,
Hassan District,
Hassan (Karnataka State)

II Party:

The Chairman,
Corporation Bank,
Head Office,
Mangaladevi Temple Road,
P. B. No. 88, Mangalore,
Mangalore-575001

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/190/2004-IR (B-II) dated 27th December 2004 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Corporation Bank in dismissing Shri Paul Richard D'Souza from service vide order dated 20-7-2002 is legal and justified? If not, to what relief the concerned workman entitled to?"

2. The first party workman while, challenging the dismissal order dated 20-7-2002 passed against him, as illegal and unjust, challenging the enquiry findings as perverse and arbitrary, also, challenged the enquiry proceedings conducted against him on both the chargesheets separately, as opposed to the principles of natural justice denying him reasonable opportunity to defend himself.

3. The management by its counter statement on the other hand asserted and maintained that the proceedings of enquiry conducted against the first party separately on the two chargesheets, were in accordance with the principles of natural justice, the findings of the enquiry officers rendered separately on the two chargesheets were based upon sufficient and legal evidence; further contended that the dismissal order passed against the first party is very much legal and justified and proportionate to the gravity of the misconduct committed by him.

4. Keeping in view the respective contentions of the parties with regard to the validity and fairness or otherwise of the enquiry proceedings, this tribunal framed the following preliminary issue :

“Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper?”

5. The management, during the course of trial of the said issue, examined the enquiry officer as MW1 who conducted the enquiry on chargesheet dated 1-6-2000 by filing his affidavit evidence and in his examination chief got marked 20 documents at Ex. M1 to M20. The management examined MW2, the enquiry officer who conducted the enquiry into the chargesheet dated 22-1-2001 and in his further examination chief got marked 19 documents at Ex. M21 to M39. The first party did not adduce any evidence and after having heard the learned counsels for the respective parties; this tribunal by order dated 6-2-2007 recorded a finding to the effect that both enquiries conducted against the first party were fair and proper. Thereupon, the matter came to be posted for arguments to be heard on merits. When the matter was taken up for hearing on 29-3-2007, learned counsel representing the first party workman was not available and whereas, after hearing the learned counsel for the management the matter is posted this day for award.

6. Learned counsel for the management argued that the findings of the enquiry officers separately rendered in holding the first party guilty of the charges leveled against him in two separate chargesheets marked before this tribunal at Exs. M1 and M21 holding the first party guilty, have been very much proved by sufficient and legal evidence and that the reasoning assigned by the enquiry officers in holding the workman guilty of the charges are well founded, supported by valid and cogent reasonings and therefore, by no stretch of imagination it can be said

that they suffered from any perversity. Learned counsel further submitted that there being no arguments advanced for the first party highlighting any factual or legal defects in the findings of the enquiry officers, the validity and legality or justification of the dismissal order passed against the first party remains unquestioned and unchallenged.

7. I find substance in the arguments advanced for the management. Having regard to the fact that the DE enquiries held against the first party have been held to be fair and proper by the finding recorded by this tribunal, the only important rather the next question to be considered was “whether the findings of the enquiry officers suffered from any perversity or arbitrariness”. If the answer to the said question is to be recorded in the affirmative, then the next question to be considered would be “whether the punishment of dismissal passed against the first party was proportionate to the gravity of the misconduct committed by him”. Before going to advert upon the aforesaid two questions, it is worthwhile to bring on record the allegations of the charges made against the first party in the first chargesheet dated 1-6-2000 running as under :—

Chargesheet

“You were working as Clerk at Madabalu branch of the Bank between the period 1-4-1997 to 26-2-2000. It is reported against you as follows :

That with mala fide intention, in collusion with Shri G. V. Prasanna Kumar, Clerk (now under suspension) then working at the branch, on 10-5-1999 you fraudulently transferred the amount of subsidy aggregating Rs. 12,515, received by the branch under IRDP Scheme in respect of the beneficiaries detailed below, which were held under Sundry Liabilities. Subsidy Reserve Fund Accounts at the branch to an unrelated Sundry Deposit Account fraudulently opened by you in the name of “Prakash”.

S. No.	Name of the Beneficiary	IRDP A/c No. and date of sanction	Loan amount Rs.	Amount of subsidy received by the branch Rs.
1.	Puttaraj	6/99 1-2-1999	9,000	1,500
2.	Rajamma	7/99 1-2-1999	9,000	2,250
3.	Appu Achari	8/99 1-2-1999	10,000	2,345
4.	Lokesh	9/99 1-2-1999	15,000	2,670
5.	Parvatamma	10/99 27-2-1999	15,000	3,750
			Total	12,515

That relating to the aforesaid fraudulent transaction, you prepared the relative transfer debit and credit vouchers with misleading narrations. That while in the transfer debit voucher dated 10-5-1999, you mentioned that the amount debited is being transferred to IRDP account, on the other hand in the transfer credit voucher dated 10-5-1999, you mentioned that amount being credited to Sundry Deposit Account of Shri Pattaraju, was the proceeds of cheque sent to State Bank of Mysore, Bangalore. That towards the aforesaid credit, you, initially recorded the entry in the name of 'Manjula' in folio No. 40 of the Sundry Deposit Register, however thereafter by cancelling the said entry you again recorded the same in the name of Prakash in the folio No. 4 of Sundry deposit register with misleading narration "cheque on SBM, MNB".

That on 24-5-1999 in collusion with Shri G. V. Prasanna Kumar, you caused withdrawal of the aforesaid amount of Rs. 12,515 in cash from Sundry Deposit Account held under the name of Prakash through a cash debit voucher dated 24-5-1999 prepared by Shri Prasanna Kumar and thereby both of you misappropriated the same.

That with a view to cancel the aforesaid acts from the knowledge of the Bank, you in collusion with Shri Prasanna Kumar caused tampering/destruction of the relative folios of the Sundry Liability Register bearing Sl. Nos. 105 to 108 containing the relevant credit entries pertaining to IRDP subsidy.

That your aforesaid acts have caused financial loss to the Bank to the extent of Rs. 12,515.

8. As per the chargesheet dated 22-1-2001, there were in all four charges levelled against the first party. The first one reading to the effect that the first party fraudulently withdrew an amount of Rs. 7,000 by fictitiously crediting an amount of Rs. 7,385 to the account of the branch namely, SB Account No. 695 of Shri Raje Gowda and made an attempt to conceal the above said fraudulent withdrawal made by him. Charge No. 2 against the first party was to the effect that he fraudulently withdrew a sum of Rs. 19,600 on 22-4-1999 by fictitiously crediting an amount of Rs. 19,665.30 on 9-3-1999 in SB Account No. 695 of said Raje Gowda and concealed the above said fraudulent withdrawal. Charge No. 3 against him read to the effect that he entered a fictitious entry in the Ledger Folio of SB Account No. 1345 to one Shri B. S. Yuvaraj for Rs. 1,000 purportedly being cash received for credit to the said account in Binder No. 2 and altered the amount originally written as Rs. 1400 to Rs. 2400 in the subsidiary sheet of the said Binder. The last charge against the first party was that he issued four cheques for Rs. 5,000 each in favour of Shri Raje Gowda without maintaining sufficient balance and retained with him the three withdrawal slips drawn on the account of Shri Gowda.

9. From the reading of the findings of the enquiry officer coming to the first charge sheet, it can be seen that

the management to establish the charges of misconduct leveled against him, referred to supra, examined the Vigilance Officer as MW1 and got marked 34 documents at Exs. M1 to M34. The relevant observations and reasonings given by the enquiry officer in coming to the conclusion that the aforesaid charge has been proved against the first party run on pages 10 to 14 as under :—

"The evidences discussed above both oral and documentary clearly establish that the amount of subsidy of Rs. 12,515 received by the branch in respect of IRDP accounts 6/99 to 10/99 and held under sundry liabilities account at the branch had been fraudulently withdrawn after transferring the amount to an unrelated sundry deposit account fraudulently opened in the name of Prakash and that certain insiders are involved in the said fraudulent act. Having answered issue No. 1 above, in the affirmative let me examine the other issues involved in the matter to arrive at a logical conclusion.

The evidence on record indicate that the debit and corresponding credit slip dated 10-5-1999 for Rs. 12,515 each prepared for fraudulently transfer of amount from Sundry Liability-Subsidy Reserve Fund Account to Sundry Deposit Account opened in the name of Prakash were in the handwriting of the CSO. Further, the evidence on record also indicate the relative credit entry for Rs. 12,515 recorded in the folio of the sundry deposit register against the date 10-5-1999, was made by the CSO, Shri G. Raghu who was the branch manager, Madabalu Branch and who has been examined as MW3 during the enquiry has identified the handwritings of CSO in the aforesaid records. As already discussed above, these vouchers and entry dated 10-5-1999 recorded in the sundry deposit register were containing misleading narrations and names.

The CSO who has been examined as defence witness (DW1), in his deposition has however, stated that acting on the instruction of Shri Ashok Kumar, Branch Manager (MW3), he had prepared the aforesaid vouchers and made the relative entry in the Sundry deposit register. He has further stated that the vouchers were prepared the previous day itself and handed over to him. He has further stated that Shri Ashok Kumar (MW3) had come to the branch on 10-5-1999. The DR in his written brief as to this aspect has contended that the CSO had prepared the vouchers mechanically at the instance of MW3 and being a sub staff promote, he was having limited knowledge of transaction. However, the circumstantial and other evidences on record indicate that these contentions are not based on any fact and instead it is only an afterthought on their part.

Shri K. Suresh Prabhu, MW4 who was holding charge of the Branch on 10-5-1999, in his cross examination has categorically stated that Shri Ashok Kumar (MW3) had not attended the office on 10-5-1999. The leave application submitted by MW3 and also letter dated 18-5-1999 of Regional Office, Hassan regarding recredit of the unutilised portion of the leave (both marked as Ex. M23) prove that MW3 was on leave on 10-5-1999.

Even assuming but not admitting that the CSO had prepared the vouchers at the instance of MW3 and he is totally innocent in the matter, the question arises why he should prepare the vouchers relating to the transaction with misleading narrations and also showing the beneficiary names differently at different places.

These misleading narrations, misleading names and also recording the entry of the transaction in one folio in some name and thereafter re-recording the name in another folio of the register by cancelling the earlier entry together in different name clearly suggest that they were not made either out of ignorance or unknowingly instead they were deliberate acts on the part of fraudster with mala fide intention to facilitate the fraudulent withdrawal of the amount.

As already discussed above, the aforesaid amount of Rs. 12,515 transferred to Sundry Deposit Account in the name of Prakash was subsequently withdrawn in cash on 24-5-1999 from the said account through a withdrawal slip prepared in the name of Shri Prakash. The evidence in record discussed above establish that Prakash who had purported to have received the amount of Rs. 12,515 is not the true beneficiary instead in all probability a fictitious person. Shri Nagraj, who has been examined as Management witness MW2 in his deposition, while confirming that he had authorized the aforesaid cash debit slip dated 24-5-1999 pertaining to the withdrawal of the amount has further deposed that entry in question recorded in the sundry deposit register indicated that the amount held therein was the proceeds of the cheque on MNG and that as such he made enquiries with the CSO as to keeping the amount under Sundry Deposit Account and that the CSO in turn stated that he knew the beneficiary and since the party's account could not be opened the same was kept in Sundry Deposit Account. MW2 has further deposed that he made such enquiries with other clerk who in turn also confirmed the same.

The other circumstantial evidence throw more light on the case. The fact of the case indicate that Shri Ashok Kumar (MW3) was not working at Madabalu Branch when the amount in question was

withdrawn and he was relieved from the branch on 12-5-1999 i.e. much prior to withdrawal of the amount. The fact of the case also indicate that Shri K. Nagraj who had authorized the withdrawal of the amount on 24-5-1999 was not at all working at the branch on 10-5-1999 i.e. when the amount was fraudulently transferred from Sundry Liabilities account to Sundry Deposit account and he had come on deputation only thereafter and worked at the branch between the period 20-5-1999 and 26-5-1999. The management has marked the folio of the attendance register pertaining to the month of May 1999 [Ex. M6(e)] to prove the aforesaid aspect.

The fact of the case also indicate that both at the time of transfer of the amount and its withdrawal, the regular branch Managers were on leave and the incidents had taken place when the officials deputed from other offices were in charge of the branch who were not either familiar with the accounts at the branch or the constituents which clearly indicate that the fraudulent act was a well designed one executed after a deep thinking and a proper planning.

The evidence on record also indicate that certain folios of the Sundry liability register containing the accounts of the Subsidiary reserve funds of IRDP (6/99 to 10/99) were missing in the ledger presumably tampered or destroyed by the fraudster and there is no eye witnesses for the same. However, the circumstantial prove the same could be/should be the acts of the persons who had committed the fraud who ultimately could derive benefit for destroying such records.

Finally the DR has also contended that the fraud had occurred solely due to the negligence/lack of proper supervision on the part of supervisory staff and the said officials had failed to adhere to the norms and procedure of the bank. The evidence on record discussed above indicate that these supervisory officials have failed to adhere to the procedure and the said lapses on their part facilitated in the withdrawal of the amount. However, the said lapses on the part of other officials of the branch does not absolve the CSO from his act which was a deliberate act done with mala fide intention with a view to derive undue pecuniary gain as established from the evidence on record.

The acts and omissions on the part of the CSO as established in the enquiry tantamount to doing acts prejudicial to the interest of the bank, a gross misconduct under Clause 19.5(j) of the Bipartite Settlement applicable to his besides involving moral turpitude.

10. From the reading of the aforesaid passage in the enquiry findings, it can be very well seen that the enquiry

officer has discussed at length and considered the oral and documentary evidence brought on record in its proper perspective in coming to the conclusion that the aforesaid charge leveled against the first party has been established in the evidence produced by the management. Learned Enquiry Officer while giving his reasonings after making discussion on the oral and the documentary evidence produced by the management rightly came to the conclusion that the first party was guilty of the aforesaid charge. The enquiry officer not only discussed the evidence produced by the management but also has taken into consideration the defence and the arguments advanced for the defence made available to him by way of written briefs. Therefore, charges leveled against the first party since have been proved by sufficient and legal evidence, it cannot be said that it was either the case of 'no evidence' or that the evidence on record was not considered and appreciated by the enquiry officer in its proper perspective. In the result, it cannot be said that findings of the enquiry officer suffered from perversity.

11. Similarly, the findings of the enquiry officer rendered on the second charge sheet issued to the first party, if we look into closely, make it abundantly clear that there was again voluminous documentary evidence marked at Ex. M1 to M54 and the oral evidence of six witnesses examined as MW1 to MW6 in order to substantiate the aforesaid four charges leveled against the first party. Learned enquiry officer as could be read from the findings brought out, the aforesaid oral and documentary evidence on record and discussed the relevant oral and documentary evidence produced by the management with reference to each and every charge. Therefore, as argued for the management charges leveled against the first party here again have been proved by sufficient and legal evidence. As noted above, learned counsel representing the first party was not available when the matter was taken up for arguments on merits. Therefore, the various contentions raised by the first party in his claim statement challenging the enquiry findings have remained unsubstantiated highlighting any factual or legal defect in the findings of the enquiry officer in coming to the conclusion that the first party was guilty of the charges leveled against him. The findings are very much supported by oral and documentary evidence in turn supported by valid and cogent reasonings. In the result, it must be held that charges of misconduct leveled against the first party in both the charge sheets have been very much proved and that findings of the enquiry officers on those charges suffered from no perversity.

12. Now, coming to the question of quantum of punishment. As well argued for the management, the gravity of the misconduct committed by the first party did not deserve any other punishment except the punishment of dismissal passed against the first party. However, taking into consideration the fact that the first party committed

the misconduct in question while working as a Clerk/Cashier promoted from the post of Attender, it appears to me that ends of justice will be met if the punishment of dismissal is converted into the punishment of Compulsory Retirement enabling him to get the terminal benefits. Hence the following award :

AWARD

The dismissal order passed against the first party is hereby modified and replaced by the order of Compulsory Retirement from services. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 11th May, 2007).

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1767.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन में केन्द्रित निर्यातकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ संख्या 64/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-05-2007 को प्राप्त हुआ था।

[सं. एल-12012/293/98-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1767.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/99) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Vijaya Bank, and their workmen which was received by the Central Government on 17-05-2007.

[No. L-12012/293/98-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT

PRESENT:

Shri A. R. Siddiqui, Presiding Officer

C. R. No. 64/1999

I PARTY:

Shri S. Ranganathan,
17, Costion Block,
Champion Reefs,
Kolar Gold Fields,
Karnataka-563117

II PARTY :

The Dy. General Manager,
Vijaya Bank,
123, Marshalls Road,
Egmore,
Chennai-600008

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/293/98/IR(B-II) dated 26th April, 1999 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Vijaya Bank, Chennai in terminating Shri S. Ranganathan, Clerk from service vide order dated 29-1-1997 is justified? If not, to what relief the workman is entitled to?"

2. The first party workman represented by the union, in his Claim Statement, while challenging the enquiry proceedings (pleadings with regard to the enquiry proceedings omitted as the issue has already been answered) also challenged the enquiry findings holding him guilty of the charges and the impugned punishment order terminating him from services as illegal and unjust. His main contention in the claim statement is that he has been acquitted/exonerated by the competent Judicial Magistrate Court in CC No. 106/91 and therefore, the management without taking into consideration his acquittal in criminal proceedings, should not have proceeded with the DE conducted against him. He contended that impugned punishment order passed against him was also bad in law as before he was proposed punishment and then punishment was confirmed, he was not supplied with the copy of the findings of the Enquiry Officer, that the Disciplinary Authority did not apply its mind and considered his reply to the second show cause notice in the proper perspective while confirming the punishment order; that the Appellate Authority also failed to appreciate his case and upheld the disciplinary authority order as expected. Then he raised the dispute before the ALC(C), Chennai which resulted into the present proceedings. He submitted that he is now aged about 50 years unable to get any employment and has got five children and therefore, the order terminating his services is to be set aside taking lenient view against him particularly, in the light of the judgement of criminal court acquitting him from the charges of misconduct leveled against him.

3. The management by its Counter Statement asserted and maintained that DE conducted against the first party was in accordance with the principles of natural justice, findings of the enquiry officer were well based on legal and sufficient evidence and that the order terminating the services of the first party was just and legal keeping in view the gravity of the misconduct committed by the first party. With regard to the contention of the first party about his acquittal by the criminal court, the management contended that in view of the criminal prosecution pending against the first party, enquiry proceedings were kept in abeyance as per the provisions of Bipartite Settlement and the suspension order dated 13-7-1989 which was passed against the first party was revoked vide order dated 15-11-1990 without prejudice to the right of the management taking disciplinary action against the first party. Thereafter, he was posted to work in Erode branch. Subsequently, by judgment dated 14-5-1994 when he was acquitted by the criminal court on the ground that charges were not established against him beyond any doubt, the disciplinary proceedings were taken against the first party under clause 19.3(c) of the Bipartite Settlement vide charge sheet dated 13-2-1995, the first party submitted his explanation to the charge sheet not acceptable to the management and therefore, DE was conducted and on the basis of the enquiry findings holding the workman guilty of the charges, he was proposed punishment of termination from services and after considering his reply to the second show cause notice punishment was confirmed and his services were terminated. The management contended that the criminal court did not acquit the first party, honourably, but on the ground that the charges were not proved beyond any doubt and therefore, it was justified in taking disciplinary action against the first party as per the above said clause of the Bipartite Settlement. Therefore, the management requested this tribunal to reject the reference.

4. Keeping in view the respective contentions of the parties, with regard to the validity and fairness or otherwise of the enquiry proceedings, this tribunal took up the above said question as Preliminary Issue. During the course of trial of the said issue, the management examined the enquiry officer as MW1 and got marked three documents at Ex. M1 to M3. The first party examined himself as WW1 and produced the judgement copy in the aforesaid criminal proceedings at Ex. W1.

5. After hearing the learned counsels for the respective parties on the above said issue, this tribunal by order dated 16-8-2004 held that the Domestic Enquiry conducted against the First Party by the Second Party is fair and proper. Thereupon, the matter came to be posted to hear arguments on merits of the case. On 25-11-2004, the

translation copy of the aforesaid judgement at Ex. W1 in English was marked at Ex. W1(A). Thereupon, the application filed by the management to lead further evidence with regard to the past service record of the first party was allowed and the four documents produced by the management were marked at Ex. M4 to M7 by consent. Once, again the first party filed his affidavit evidence on the point of gainful employment and then the matter has been heard on merits of the case and posted this day for award.

6. Keeping in view the findings recorded by this tribunal to the effect that the DE held against the first party by the second party is fair and proper the next important question to be considered was whether the findings of the enquiry officer holding the first party guilty of the charges suffered from any perversity and if not, impugned punishment order terminating his services was disproportionate to the gravity of the misconduct committed by him.

7. The learned counsel for the first party, Shri BDK while not challenging the enquiry findings with reference to the evidence produced during the course of enquiry and was taken into consideration by the enquiry officer holding the first party guilty of the charges however, vehemently contended that the first party has been acquitted by the competent criminal court with regard to the very charges of misconduct leveled against him based upon the very same set of facts and very same set of evidence and that his acquittal by the court was a honourable acquittal not giving any benefit of doubt and therefore, the management was not competent and justified once again taking disciplinary action against the first party and then terminating his services on the basis of the enquiry findings holding him guilty of the charges. He contended that this action of the management runs counter to clause 505 of Shastri Award as well as clause 13.9 © of Bipartite Settlement. He argued that the punishment order passed against the first party is also liable to be set aside for the reason that the disciplinary authority pre-decided about the punishment before giving opportunity of hearing to the first party on the findings of the enquiry officer as enquiry report was made available to the first party only along with the order of the disciplinary authority proposing the punishment. The learned counsel further submitted that as on this day the first party has got service of just six months and therefore, deserve lenient view at the hands of this tribunal. In support of his arguments that in the light of the hon'ble acquittal of the first party by the criminal court, findings of the enquiry officer as well as punishment order are liable to be set aside. Learned counsel relied upon

the decisions reported in 2006 AIR SCW 2709-G M Tank Vs. State of Gujarat and Anor, AIR 1999 SC 1416-M Paul Anthony Vs. Bharat Gold Mines Ltd. and Clause 505 of Shastri Award. Seeking lenient view from this tribunal he relied upon the order passed in WP No. 17534/1999 (not reported).

8. Whereas, learned counsel for the management Shri Prasad representing Shri BCP with equal vehemence argued that the charges of misconduct since have been proved during the course of enquiry and the findings of the enquiry officer are very much based upon sufficient and legal evidence, the management was justified in terminating the services of the first party keeping in view the gravity of the misconduct committed by him. Learned counsel submitted that the criminal court judgment in favour of the first party is no bar in initiating disciplinary action against the first party as per clause 13.9 © of the Bipartite Settlement read with Section 505 of Shastri Award. He also contended that keeping in view the gravity of the misconduct and the past record of the first party whereunder he was punished with "warning and censure" for committing misconduct of issuing cheques without sufficient balance in his account does not deserve him any lenient view from this tribunal. His next contention was that even if it is taken that the charges of misconduct are not proved, this tribunal under Section 11A of the ID Act while setting aside the dismissal order need not always give relief of reinstatement. He took support of a decision reported in 2002 LLR 1030 in this context.

9. It is not disputed and cannot be disputed that the acquittal of the first party by the competent criminal court vide Ex. W1 was based on identical and similar set of facts and evidence. From the perusal of the findings of the enquiry officer and the aforesaid judgment it is found that charges of misconduct leveled against the first party in the chargesheet of the management as well as in the chargesheet filed by the police concerned, respectively, were one and the same. During the course of enquiry the management examined four witnesses as MW1 to MW4. MW1 is Mr. V. Shanmugasundram, MW2 is Shri R. Kumar, MW3 is Mr. K. Rajagopal, the then Chief Manager and MW4, Shri P. Mohan, the then Branch Manager and got marked about 73 documents at Ex. MEX-1 to 73.

10. Whereas, during the course of trial before the criminal court, six witnesses were examined and about 25 documents were marked. The first witness, PW1, one Shri Jaganathan was the present Branch Manager of the bank, PW2, was said Mr. Shanmugasundram. PW3 was Mr. Kumar. PW4 was Ganesan, PW5 was Meenakshi and PW6 was Thiru Rajaraman, the Investigation Officer.

Therefore, it can be seen from the aforesaid records that during the course of enquiry the two relevant and competent witnesses namely, Shanmugasundaram and Kumar in respect of whose amount, misappropriation is said to have been committed by the first party were examined and the other two witnesses namely, the Investigation Officer and the then Branch Manager whose evidence was formal in nature. Whereas, during the course or trial the Prosecution in fact examined almost all the four alleged victims at the hands of the first party namely, the said two witnesses. Shanmugasundaram and Kumar and Mr. Ganesan and Meenakshi. Therefore, the evidence which was adduced during the course of enquiry proceedings was much more relevant and competent than the evidence which was led during the course of enquiry. From the perusal of the judgment it can be very well gathered that the learned Magistrate discussed the oral as well as the documentary evidence produced by the Prosecution and ultimately, came to the conclusion that the charges as leveled against the first party that he committed the breach of trust, forgery and misappropriation of the cash were not proved clearly and therefore, he held that the prosecution has not proved the charges against the accused (first party) beyond any reasonable doubt. Therefore, the contention taken by the management that first party in the said prosecution has not been acquitted honourably or that he was acquitted giving benefit of doubt cannot be sustained in the light of the elaborate discussions made by the learned Magistrate in the aforesaid judgment discarding the evidence of prosecution and in coming to the conclusion that charges have not been proved against the first party. The acquittal as could be seen from the said judgment is on merits and is clean and not based upon benefit of doubt in technical preposition. The very same evidence as noted above, that too in a lesser degree was led in the departmental enquiry. A reading of both the charges, one framed during the course of enquiry and the charges on the basis of which criminal trial was taken up would show that both the charges are grounded upon the same set of facts and evidence. Now, therefore, it is in this view of the matter we had to appreciate the arguments advanced from the first party that disciplinary action should not have been taken against him when he was acquitted by the competent criminal court on the very same set of charges, same set of facts and same set of evidence. Their Lordship of Supreme Court in aforesaid G. M. Tank case laid down the principle that if the acquittal of the delinquent by the competent criminal court is based on identical and similar set of facts and evidence and the acquittal is honourable acquittal, findings to the contrary recorded in the departmental proceedings are unfair and oppressive and therefore, dismissal order based on those findings is liable to be set aside. Their

Lordship of Supreme Court in the aforesaid decision relied upon their earlier decision in the aforesaid Mr. Paul Anthony's case. Wherein, their Lordship at Para 34 and 36 of the decision laid down the principle as under :—

“In the instant case the Superintendent of Police had raised the residential premises of the appellant and had recovered a mining sponge gold ball weighing 4.5 grams and 1276 grams of gold bearing sand. It was on this basis that criminal case was launched against him. On the same set facts, constituting the raid and recovery, departmental proceedings were initiated against the appellant as the “recovery” was treated to be misconduct. On the service of the chargesheet, the appellant raised an objection that the departmental proceedings may be stayed as the basis of these proceedings was the raid conducted at his residence on which basis criminal case had already been launched against him. The findings recorded by the enquiry officer indicate that the charges framed against the appellant were sought to be proved by Police Officers and Panch witnesses, who had raided the house of appellant and had effected recovery. They were the only witness examined by the enquiry officer and the enquiry officer relying upon their statements came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case but the court, on a consideration of the entire evidence, came to the conclusion that no search was conducted nor was any recovery made from the residence of the appellant. The whole case of the prosecution was thrown out and the appellant was acquitted. In this situation, therefore, where the appellant is finding that the “raid and recovery” at the residence of the appellant were not proved, it would be unjust, unfair and rather oppressive to allow the findings recorded at the ex parte departmental proceedings, to stand”.

11. Therefore, having regard to the principle laid down by their Lordship of Supreme Court in the aforesaid two decisions, this tribunal is left with no option but to hold that the management was not justified in resorting to disciplinary proceedings against the first party after he was already acquitted, honourably, by the competent criminal court not giving him benefit of doubt but honourably, irrespective of the legal position that the management was competent to initiate parallel disciplinary proceedings against the delinquent, simultaneously, along with criminal prosecution pending against the delinquent. Therefore,

the action of the management initiating disciplinary proceedings against the first party and then terminating the services of the first party on the basis of enquiry findings cannot be sustained in the eye of law. There is again substance in the arguments advanced for the first party that the management has not complied with the requirements of Section/Clause 505 of Shastry Award which requires that the decisions of courts shall be given highest respect and the employees shall be reinstated in service when he is honourably acquitted. It is further made clear in the said clause that the management has still got powers to proceed with the departmental enquiry if there has been a gross violation of departmental rules so as to necessitate a further enquiry in the interest of the institution on matter other than those in respect of which he has been already acquitted. In the instant case, it is not the case of the management that the first party was dealt with gross violation of the departmental rules other than the charges of misconduct levelled against him. Therefore, on this count also the impugned punishment order suffers from illegality. The next contention raised on behalf of the first party in his Claim Statement as well as in his affidavit evidence and not challenged and disputed by the management is the fact that after the enquiry findings were submitted with the Disciplinary Authority, there was no second show cause notice issued to him furnishing him the copy of the enquiry report seeking his comments/explanation therefor. The order dated 7-10-1996, marked before this tribunal at Ex. M8 lends support to the contention of the first party that before he was proposed punishment of terminating his services, he was not served with any enquiry report seeking his explanation, thereon. The enquiry report copy in fact as could be read from the aforesaid order was sent to the first party along with the order proposing the punishment and it is in this view of the matter one cannot brush aside lightly the arguments advanced for the first party that while issuing the aforesaid order itself, the disciplinary authority had decided to punish the first party holding him guilty of the charges. The order is reading to the effect that the Disciplinary Authority accepted the findings and then proposed the punishment. Therefore, this action of the management/disciplinary authority in proposing the punishment after accepting the findings of the enquiry officer without giving the first party opportunity of hearing on the very findings of the enquiry officer holding him guilty of the charges was against the well established procedure of law and principles of natural justice as well as the settled preposition of law. In the result, for the reasons assigned above, there is no hesitation in the mind of this tribunal in coming to the conclusion that the impugned punishment order terminating the services of the first party

is illegal and void ~~ab~~ initio and accordingly is liable to be set aside.

12. Now, coming to the reliefs to be granted to the first party. There is no point at this juncture to grant him relief of reinstatement. From the affidavit filed by the first party before this tribunal dated 13-6-2005, the age given by him is about 57 years now, therefore, as on today he has already crossed the age of superannuation of 58 years.

13. Now, the next question to be considered would be whether he should be granted full back wages from the date of termination till the date of his attaining the age of superannuation. Although, the first party in his Claim Statement has come out with the case that he has not been gainfully employed during the period he was away from the service of the management, very, interestingly in his affidavit before this tribunal did not whisper a single word to suggest that he has been without any employment much less gainful employment after his services were terminated. The management on whose burden was cast to prove the gainful employment of the first party in order to deny him the back wages also has not chosen to produce any sort of evidence before this tribunal on the said point except making a suggestion to the first party in his cross examination that he has been gainfully employed after he was dismissed from service, which suggestion was denied by the first party. Therefore, having regard to the latches both on the part of the first party as well on the part of the management on the point of gainful employment or otherwise of the first party, taking into consideration a period of about more than 8 years elapsed from the date of impugned punishment order and not ignoring the fact that the charges of misconduct have remained to be substantiated by the management rather the findings of the enquiry officer holding him guilty of the charges cannot be sustained in the eye of law on account of his acquittal by the criminal court, it appears to me that ends of justice will be met if the first party is awarded back wages to the extent of 60% from the date of impugned punishment order till the date he attained the age of superannuation with all consequential benefits. Hence the following award :

AWARD

The management is directed to pay 60 per cent of the back wages to the first party from the date of impugned punishment till the date of his attaining 58 years of age of superannuation with continuity of service and other consequential benefits. No costs.

(Dictated to PA transcribed by her, corrected and signed by me on 3rd May 2007).

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1768.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, नई दिल्ली के पंचाट (संदर्भ संख्या 35/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-07 को प्राप्त हुआ था।

[स एल-112012/282/99-आईआर(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1768.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 35/2000) of the Central Government Industrial Tribunal-cum-Labour Court No-1, New Delhi as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 17-5-2007.

[No. L-12012/282/99-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO-1, NEW DELHI

I.D. No. 35/2000

In the matter of dispute between:

Shri Gopal Singh Bisht,
R/o B-9/20 A,
Udai Giri, Sector-34,
NOIDA (U.P.)

...Workman

Versus

The General Manager,
Bank of Baroda,
16-Sansad Marg,
New Delhi-110001

...Management

Appearances: None for the workman
Shri T.C. Gupta Advocate for the management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/282/99-IR(B-II) dated 23-2-2000 has referred the following industrial dispute to this Tribunal for adjudication:—

“Whether the action of the General Manager, Bank of Baroda, New Delhi in dismissing the services of

Shri Gopal Singh Bisht, Cash Clerk w.e.f. 31-7-88 is legal and just? If not, to what relief the workman is entitled?”.

2. In response to the notices to the parties for appearance on 16-5-2000 workman in person and Shri T. C. Gupta A/R for the management appeared. After filing Claim statement, written statement and rejoinder the case was fixed for filing documents by management on 9-8-02 A/R for the management pointed out the appellate order 10-11-98 stating that the reference is only in respect of the initial order of punishment. Hence no effective award can be given unless the reference is also in respect of the appellate order. A letter to the government to suitably amend the reference order incorporating the appellate order as well as in the reference was ordered to be written and case was adjourned to 26-10-02 which was declared holiday and case was taken on 28-10-02 and case was adjourned for further order on 15-1-03, 25-3-03, 5-03, 10-7-03, 6-10-03, 14-1-04, 17-3-04, 27-5-04, 21-7-04, 11-10-04, 13-1-05 when Mr. T. C. Gupta A/R for the management has drawn my attention to the order dated 9-8-02 vide which it was directed to write a letter to the government to suitably amend the reference order incorporating the appellate order as well in the reference. It appears that there is some clerical mistake in the reference order which is required to be clarified and reference is required to be amended. Hence it would be appropriate for the petitioner workman to seek amendment of the reference order at the earliest and copy of this order was ordered to be given dasti to the workman. Case was then adjourned to 12-4-05 and on 12-4-05 case was adjourned to 7-7-05 for further order, then on 27-9-05, 22-12-05, 21-3-06, 8-6-06, 19-7-06, 9-8-06, 1-11-06 on which date Mr. T. C. Gupta pressed for passing a no dispute award as the workman was not appearing for the last three dates. As there was Delhi Bandh so it was ordered that it would not be proper to pass an order in the absence of the workman. Hence case was adjourned to 7-11-06 for further and appropriate order. On 7-11-06 also none appeared and notice to workman was ordered to be issued for 15-1-07. On 15-1-07 also none appeared for either side and case was adjourned to 29-3-07 for further orders. On 29-3-07 none for the parties appeared and case was adjourned to 10-5-07. Today also none is present on either side. It appears that the workman is not interested in prosecution of this case giving rise to the presumption that he does not dispute to action of the management. I accordingly pass a No Dispute Award in this case. File be consigned to record room.

SANT SINGH BAL, Presiding Officer

नई दिल्ली, 21 मई, 2007

का.आ. 1769.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के

बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 18/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-5-07 को प्राप्त हुआ था।

[सं एल-12011/18/2002-आईआर(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1769.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the management of Central Bank of India, and their workmen, received by the Central Government on 18-05-2007.

[No. L-12011/18/2002-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT: SHRIKANT SHUKLA, Presiding Officer

I.D. No. 18/2002

Ref. No. L-12011/18/2002-IR (B-II) Dt. 15-3-2002

BETWEEN

The Regional Secretary,
Central Bank of India Employees
Union, Agra, Regional Office,
470 Bhud Bazaria Pattay
Bareilly (U.P.)-243601

AND

The Regional Manager,
Central Bank of India, Regional Office
B-88, Civil Lines,
Bareilly (U.P.) 243001

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute vide No. L-12011/18/2002-IR (B-II) Dt. 15-3-2002 for adjudication to the Presiding Officer, CGIT-cum-Labour Court, Lucknow:

"Whether the claim of the Central Bank of India employees Union that the disputant Sri Narrotam Kumar has been engaged as temporary sub staff on daily wage basis since the year 1996 and that he was completed 240 days of continuous service in any preceding 12 months period is correct? If so, whether the disputant is entitled for regularisation of his service as a sub staff? If not, justified what relief is the disputant entitled to?"

Later on Government of India, Ministry of Labour, New Delhi issued the corrigendum vide no. L-12011/18/2002-IR (B-II) Dated Jan. 29, 2003;

1. Whether the claim of the Central Bank of India Employees Union that the disputant Sri Narrotam Kumar has been engaged as a temporary sub-staff on daily wage basis since the year 1996 and he has completed 240 days of continuous service in any preceding 12 months period is correct?
2. Whether the action of the management of Central Bank of India in terminating the services of Sri Narrotam Kumar on 19-7-2001 is legal and just?
3. Whether the disputant is entitled for absorption/regularization of his service as a sub-staff? If not justified, what relief is the disputant entitled to?"

The trade union's case is that Sri Narrotam Kumar was appointed by the Manager, Central bank of India, Shyanganj Branch, Bareilly as temporary peon in the branch on 1-1-96. However, the worker was being paid through vouchers made out for tea, coffee, cold drinks which the workman was required to sign and receive the payments. It is further alleged that no payment were made for Sundays and holidays. It is also alleged that in beginning these vouchers were made out for Rs. 35 per day Rs. 40 per day Rs. 50 per day 60 per day and ultimately to Rs. 100 per day. The post of Sub-Staff was vacant thus the workman worked in clear vacancy. The workman Narrotam Kumar requested several times to the manager of the branch to regularize the services but in vain. Under the circumstances, the workman raised the industrial dispute through the trade union before Asstt. Labour Commissioner (C) Dehradun for regularisation of the services. No sooner the bank received notice from the Asstt. Labour Commissioner (C) Dehradun terminated the services of the workman at the close of office on 19-07-01 without assigning any reason, without payment notice pay and retrenchment compensation. By doing so the bank committed breach of Section 25 F of the I.D. Act, 1947. It is also alleged that worker has worked for more than 240 day in each year as peon. It is also alleged that since the worker has worked in clear vacancy therefore he is entitled to absorption in the permanent service of the bank. It is also alleged that bank indulged in unfair labour practice and therefore he is entitled reinstatement and absorption in permanent service of the bank. It is also alleged that the worker is entitled to reinstatement with full back wages. Trade union has therefore prayed the tribunal to hold that Sri Narrotam Kumar was engaged at temporary sub staff on daily wage basis since 1-1-96 and he has completed more than 240 days of continuous service of all 12 months and the action of bank in terminating the service of Narrotam Kumar w.e.f. 19-7-01 is illegal and unjustified. The Tribunal has been requested to reinstate the worker with full back wages and also his absorption in permanent service in the bank.

The Regional Manager of Bank has filed written statement denying the claim of the workman. It is submitted that Sri Narrotam Kumar was never appointed by the Branch Manager of opposite party's Shyam Ganj Branch, Bareilly as temporary peon or on any post. It is also submitted that Branch Manager has no power to appoint any body at any post. It is also submitted that some time Narrotam Kumar used to supply water, cold drinks and coffee to the customers for which he was paid the charges for the same. It is also alleged that Narrotam Kumar was never paid wages as he never worked in the bank. It is alleged that Narrotam Kumar was paid for the things and the vouchers were correctly made and were signed by Narrotam Kumar. It is alleged that story set upon by the trade union is fabricated one. It is also as submitted that there is no question of any unfair labour practice. It is also submitted that there is no question of regularization of Sri Narrotam Kumar as he was never the employee of the bank. It is also denied that the management of bank has committed any breach of section 25F of the I. D. Act, 1947. It is also submitted that Sri Narrotam Kumar was not in the employment of the bank and there is no question of terminating his services.

The trade union has filed rejoinder but not stated any new facts.

The workman has filed the photo copy of own work details which are paper Nos. A1-17 to A1-17/11 under his own signature.

The workman has also filed 3 letters of Branch Manager wherein the bearer of the letter was authorised to collect income tax return form and challan, these are paper Nos. A1-25 to A1-25/3. Besides the worker has filed photo copy of some vouchers paper Nos. 25/4 to 25/26.

Worker has also filed photo copy of despatch book, register of cash payment, cheque receipts. The opposite party has filed the entire vouchers (C23/1 to C23/213) alongwith list C23/1 to 23/10.

The trade union has examined the worker and the opposite party has examined Sr. Manager of Shyam Ganj Branch, Bareilly & Aditya Kumar.

Partly heard the representative of the parties but on 7-11-06 and 9-11-06 parties did not turn up for arguments and therefore, there was no option then to proceed with disposal of the case.

Worker Narrotam Kumar in his cross examination has admitted the following facts :

1. No appointment letter was supplied to him.
2. He has no document to corroborate the fact that he entered into service on 1-1-96.
3. The worker has no photo copy of payment of salary.

The worker has also stated in his cross examination that he was appointed by the Branch Manager Mr. Johari.

He has also admitted that he was not interviewed and has stated मुझे ऐसे ही रख लिया ।

Worker has also stated in his examination in chief that " मुझे भुगतान वाउचर के माध्यम से होता था। कभी सामान के मद में कभी लेबर चार्ज के रूप में भुगतान किया जाता था ।"

In cross examination worker has stated :

प्रतिदिन के हिसाब से मुझे कभी Rs. 40/- कभी Rs. 60/- कभी Rs. 75/- एवं कभी Rs. 100/- का भुगतान बैंक देती थी, छुट्टी वाले दिन का भुगतान नहीं होता था, मुझे ब्रान्च मैनेजर चौधरी साहब ने भर्ती किया था ।"

He has further stated in his cross examination that;

"मेरा कोई interview अन्य व्यक्तियों के साथ नहीं हुआ था मुझे ऐसे ही रख लिया था ।"

Worker was questioned as to from which source he found photo copy of the vouchers then the worker stated that Sri R.K. Kapoor, Accountant made available the said photo copies which he has filed in the bank. He has stated that Sri R.K. Kapoor has retired.

Sr. Manager Sri A. Kumar who has been cross examined by the management has stated that Peon in Central Bank are appointed by Regional Manager and the Branch Manager has no right to appoint anybody. He has further stated that the applications are called through Employment Exchange. He has further stated that the statement of Narrotam Kumar that he was appointed as temporary peon and than he has worked more than 240 days in a year is wrong. He has also stated Sri Narrotam Kumar never worked as peon. Further he has stated that Sri Narrotam Kumar use to work as canteen boy and use to provide tea, coffee, cold drinks etc. to the staff and the customers and for that service he was paid and whenever the worker was engaged for any other work he was paid for that.

Sri A. Kumar has also stated that he has inspected all the vouchers and has filed all the vouchers in the court and there are no other voucher available in the bank. Sr. Manager has also stated that Sri Narrotam Kumar stopped working in the canteen since 19th July, 2001. He has also stated that canteen is run by the employees of the bank. Witness has stated whoever demanded any eatable items from a Canteen, canteen boy use to provide & for that he was paid. He has stated that bank used to provide subsidy at the rate of Rs. 50/- per employee.

He has also stated that there is no fix salary for the canteen boy.

Sr. Manager has stated in his statement that there is no regularization scheme in the bank. In a question to the court, as to who is running the canteen, the witness stated that presently canteen is run by Mr. Mukesh. He has also stated that canteen is not subsidised by the bank.

From the above evidence it is clear that the Branch Manager is not appointing authority of any peon. The

opposite party has filed hundreds of vouchers which I have personally scrutinised and found that the worker Narottam Kumar has been paid at that time Rs. 3/-, Rs. 17/-, Rs. 34/-, Rs. 23/-, Rs. 6/- and Rs. 10/- and so on. He has never been paid as he tried to allege in the statement of claim and in his own statement.

It is matter of fact that no person will work at meagre amount of Rs. 3/-, Rs. 17/- or Rs. 10/- per day.

Worker has been paid Rs. 3/- per day on 11-1-2000, 18-1-2000, 19-1-2000, 25-1-2000, 23-5-2000, 13-7-2000, 29-7-2000, 25-8-2000, 9-10-2000, 21-10-2000.

It is also evident that the worker has been paid Rs. 10/- per day on 17-1-2000, Rs. 15/- on 11-1-2001, Rs. 17/- on 15-1-2001, Rs. 2/- on 17-2-2000, Rs. 17/- on 1-5-2000, Rs. 4/- on 25-5-2000, Rs. 6/- on 1-7-2000 and Rs. 23/- on 19-9-2000.

It is needless to say that the statement of the worker is false and he cannot be relied upon. On the other hand the management witness has stated that the worker was available as he was canteen boy of the canteen and since the workman was available he was utilised sometimes for sending postal articles, depositing the bills etc. It is because he was a canteen boy he was able to take the bill from the bank and deposit the bill of telephone. From the voucher it is clear that several items he received the amount of telephone bill and deposited. Whatever misc. work he did while working in the canteen, he has been paid. Worker's own list of work is not trustworthy as it is prepared by him under his own signature and since the workman's own statement is not reliable the list prepared by him also cannot be relied upon.

The opposite party has filed the vouchers on its perusal I find that the worker done the misc. work as per details below :

Sl.No.	Year	Days of work
1.	1997	8 days
2.	1998	30 days
3.	1999	60 days
4.	2000	115 days
5.	2001	22 days

I also find that certain photo copies of the documents which has been filed by the worker have not been filed by the opposite party reasons as given by the opposite party may be that the worker had access in the bank, therefore, he might have managed to take those documents out or it may be forged. Even if I take into consideration all the documents submitted by the worker then also it will reveal that worker has done 67 days petty job in 1999 and 33 days petty job in 1998.

In the circumstances of the case the worker is not even a casual worker on the fixed terms as stated by him

and there is no any relationship of employer and employee between the bank and Sri Narottam Kumar.

It is also not proved that the worker entered into service as alleged by him. This fact is false that he was engaged/appointed temporary sub staff on daily wage basis and he has completed 240 days continuous service in any preceding 12 months period.

It is also not a case where the worker was engaged as casual labourer and, therefore, question of terminating the service does not arise and it is also noteworthy no unfair labour practice against the management is established not there is any violation of I.D. Act, 1947. However, the worker's sole testimony that he was terminated on 19-10-2001 is false. He is not entitled to any relief as say of absorption or regularization.

On the discussion above I come to the conclusion that issues referred are decided against the trade union and in favour of the management of the Central Bank. Workman is not entitled for any relief. Award passed accordingly.

SHRIKANT SHUKLA, Presiding Officer

Place : Lucknow

Dated : 11-5-2007

नई दिल्ली, 21 मई, 2007

का.आ. 1770.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बेंगलूर के पंचाट (संदर्भ संख्या 24/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-07 को प्राप्त हुआ था।

[सं एल-12012/183/2000-आई.आर.(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S.O. 1770.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 17-5-2007.

[No. L-12012/183/2000-IR (B-II)]

RAJENDER KUMAR, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE

Present :

Shri A.R. Siddiqui, Presiding Officer

C.R. No. 24/2001

IPARTY :

Smt. Sheela,
 D/o Shivappa Devadiga,
 Behind SVV Temple, Gurupur,
 Mangalore Taluk,
 Karnataka State

IIPARTY :

The Deputy General Manager,
 Syndicate Bank,
 Zonal Office, Syndicate Towers,
 UDUPI,
 Karnataka State

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* Order No. L-12012/183/2000/IR(B-II) dated 28th March, 2001 for adjudication on the following schedule :—

SCHEDULE

“Whether the action of the management of the Syndicate Bank in denying employment to Smt. Sheela, who has claimed to have worked as Sweeper, Syndicate Bank, Gurupur Branch from 1991 to April, 2000 in different spells is justified? If not, to what relief Smt. Sheela is entitled to?”

2. The case of the first party workman, as made out, in the claim statement in brief, relevant for the purpose is that her mother Smt. Prabhavathi was working as Sweeper at Gurupur Branch of the management bank and whenever she was going on leave she (the first party) used to attend the work of Sweeper at her place; that Smt. Prabhavathi died on 30-5-1999 and thereafter she was asked to attend the Sweeper work and accordingly she worked till 6-4-2000 discharging her duties honestly and sincerely; that on 6-4-2000 she was served with a notice relieving her from duties as per the directions of the head office, which notice is illegal and arbitrary; that she being one of the legal heirs of the deceased Smt. Prabhavathi who died while in service was appointed for the post of Sweeper by the Bank in place of her mother and therefore, the order terminating her from services w.e.f. 6-4-2000 is illegal, in as much as, she was not served with any notice or dealt with any enquiry for having committed any misconduct; that her request to take back in service in place of her mother has not been considered favourably by the management *vide* letter dated

22-12-2000 on the ground that she is not eligible for appointment on compassionate ground in the light of the scheme of the bank; that she worked with the bank from 1-6-1999 till 6-4-2000 as a Sweeper after the death of her mother and therefore, the order of the management terminating her from services by notice dated 6-4-2000 is illegal and against the principles of natural justice and therefore, is liable to be set aside reinstating her in service along with all consequential benefits.

3. The management by its Counter Statement resisted the claim of the first party contending among other grounds that any appointment in the sub staff cadre as per the guidelines issued by the Government is to be made only from amongst the candidates sponsored by the Employment Exchange and out of the panel prepared by the bank for the candidates working as Badlies prior to 1-1-1989 at Gurupur Branch and therefore, fresh panel was prepared by approaching the Employment Exchange and the name of one Miss Baby sponsored by the Employment Exchange has been empanelled as Badli Part time Sweeper on 26-11-1991 at Gurupur Branch for appointment on temporary basis in the place of regular part time sweeper who proceeds on leave/absent; that the first party was not sponsored by the Employment Exchange and her name being recommended by her mother, Smt. Prabhavathi was taken as Badli Sweeper in between the year 1992 and 1997. She worked in between 6-3-1992 and 16-3-1992 for 13 days, worked in between 8-1-1996 to 3-2-1996 for 27 days, worked in between 20-7-1996 to 4-9-1996 for 47 days and between 2-8-1997 to 14-8-1997 worked for 13 days; that Miss Baby was engaged from 8-1-1999 till 2-12-1999 in place of regular part time Sweeper Smt. Prabhavathi expired on 30-5-1999, just one month prior to her date of retirement and in her place said Miss Baby was working as Badli Sweeper. However, in the month of November/December 1999 as per the directions of management the first party was appointed as Badli Part time Sweeper in place of Miss Baby under the wrong impression that the first party was also empanelled as Badli Sweeper and was senior to Miss Baby from 3-12-1999 to 30-3-2000 for a period of 119 days and from 1-4-2000 to 6-4-2000 for a period of six days; that on noticing the mistake committed by the management the branch was advised in April 2000 to engage Miss Baby as Badli Part time Sweeper whose name was sponsored through the Employment Exchange in place of the first party and accordingly the first party was issued with the relieving order dated 6-4-2000. Therefore, the management contended that the first party has not worked in place of her mother on compassionate ground or for a period of 240 days and more continuously during the aforesaid period and therefore, the order passed by the management relieving her from services was quite legal and justified and the reference is liable to be rejected.

4. During the course of trial the management examined MW1 and got marked 9 documents at Ex. M1 to

M9. His examination chief for ready reference runs as under :

"Since 1974, I am working in Syndicate Bank. I know the first party. In addition to regular sub staff we were engaging part time sweeper whenever there were exigencies and regular part time sweeper goes on leave. The first party was appointed on stop gap basis during the absence of regular sweepers. Ex. M1 is the circular issued as guidelines for temporary part time sweeper. Regular appoints were made in accordance with circular. There are two panels for Badli part time sweepers are prepared. Those who have worked prior to 1-1-1989 as Badli Part time Sweeper and Second panel and candidates sponsored by the Employment Exchange. This is prepared in the zonal office and informed to all the concerned branches. We have a branch at Gurupur. There were no Badlis PTS prior to 1-1-1989. So fresh panel was prepared through employment exchange. First party was engaged as Badli PTS at Gurupur branch, purely on temporary basis. She has worked from 15-3-1992, 26-3-1992, 8-1-1992 to 3-2-1992, 20-7-1996 to 4-9-1996 and 2-8-1987 to 14-8-1987. In all she worked for 119 days. Ex. M2, 3 and M4 are the orders to work as Badli PTS issued by the Bank. Again she was engaged from 30-3-2000, 1-4-2000 to 6-4-2000 she worked. Her name was not sponsored by the Employment Exchange. Her engagement was not according to the guidelines. By mistake in place of Miss Baby candidate sponsored by the Employment Exchange, 1st party was engaged and after tracing the same, she was relieved from 6-4-2000. She never worked for more than 240 days at any time either in calendar year or total in service. She worked only for 225 days in all intermittently. It is not a case of retrenchment. For the period for which the first party worked was paid through by crediting wages in her SB account. Mother of first party Mrs. Prabhavathi was working as Regular PTS at Gurupur Branch. She had recommended the name of the first party. Ex. M5 is the letter written by the Zonal office to Miss Baby. Ex. M6 is the order issued to Baby. Ex. M7 is the relieving order. Ex. M8 issued by Zonal office informing the name sponsored by the Employment Exchange. Ex. M9 is the relieving letter issued to the first party."

5. It is seen from the records that there was no cross examination to the said witness on behalf of the first party and the matter was taken up for evidence of the first party. On 19-8-2004, the first party filed her affidavit evidence with three documents marked at Ex.W1 to W3. In her

affidavit evidence, the first party once again repeated the averments made by her in the claim statement. Her statement in cross-examination is as under:

"My mother who was working as Sweeper with the management had recommended my name to be appointed as temporary part time sweeper. It is true to say that I was appointed in that capacity for the first time in the year 1992. It was for the period of 13 days as per Ex. M2. It is true that thereafter I was engaged in the above capacity for a period of 27 days in the year 1996 as per Ex. M3. I was again engaged for 47 days period in the year 1996 as per Ex. M4. Again for a period of 13 days I was engaged from 20-8-1997 to 14-8-1998. It is true to say that my services were being taken as a temporary part time sweeper during the period mentioned above as and when the permanent sweeper was away from duty. I know one Miss Baby. It is true that she has also working as a temporary part time sweeper at Gurupur branch like me. I do not know if her name was sponsored through employment exchange. I do not know if she was appointed as temporary part time sweeper in the year 1999. It is true that my mother who expired on 30-5-1999 was hardly left with one months service at the time. It is not true to say that in place of my mother said Miss Baby was appointed as Part time Sweeper. It is true that my name has not been sponsored through Employment exchange in the branch. I was taken back to service on 2-12-1999 in place of said Baby. I continued to work till 6-4-2000. I was refused work by way of termination order as per Ex. M9. My request to the management to continue in service in place of my mother on compassionate grounds was rejected by the management. My SB account is with Gurupur branch from 1992 onwards. The wages payable to me have been credited to my account. It is not true to say that I have not worked for 240 days continuously in any of calendar year or in whole of the above said period. I am presently working as Beedi worker getting daily wages of Rs. 50."

6. Thereupon, the matter was taken up to hear the learned counsels representing the parties on merits but there was no representation on behalf of the first party, she herself and her advocate being absent before the court. Ultimately, learned counsel for the management was heard and the case is posted this day for award.

7. Learned counsel for the management, vehemently, argued that the first party was working as a Part Time Sweeper whenever her mother, Smt. Prabhavathi remained absent from duty and it is after the death of said Smt. Prabhavathi said Miss Baby was engaged as a part time

Sweeper and under the wrong impression that the first party's name was sponsored through employment exchange, she was once again engaged as part time sweeper between 30-3-2000 and 1-4-2000 and that after having realised the mistake i.e. infact Miss Baby was the candidate sponsored through Employment Exchange she was taken back in service and the first party was relieved from duties. Learned counsel submitted that neither earlier to the death of Smt. Prabhavathi nor subsequent to her death, the first party worked continuously for a period of 240 days or more nor she was taken in service on compassionate ground in place of her mother and therefore, her claim before this tribunal that the order relieving her from duties is illegal is not tenable.

8. After having gone through the aforesaid statement of the management witness in examination chief and the statement of the first party herself in cross examination I find substance in the arguments advanced for the management. From the statement of MW1 as noted above, it is crystal clear that the first party, before the death of her mother worked for a total period of 100 days in between the year 1992 and 1997. It is further clear from the statement of the witness that in between 3-12-1999 and 30-3-2000 the first party hardly worked for a period of 119 days and in between 1-4-2000 and 6-4-2000 she worked for a period of six days. The first party in her cross examination as seen above, in no uncertain terms admitted the fact that for the first time in the year 1992 she worked for a period of 13 days as per Ex. M2 and worked for a period of 27 days in the year 1996 as per Ex. M3. She worked once again for a period of 47 days in the year 1996 as per Ex. M4 and again worked for a period of 13 days from 2-8-1997 to 14-8-1997. She also admitted that she worked as a part time sweeper on temporary basis during the aforesaid period when the permanent sweeper was away from duty. She admitted that her mother expired on 30-5-1999 a month prior to her retirement date and that her name has not been sponsored through Employment Exchange. She admitted that she was taken back in service on 2-12-1999 in place of Miss Baby and continued till 6-4-2000 till the order relieving her from duties at Ex.M9 was passed. It was elicited that her request to the management to continue in service in place of her mother on compassionate ground was rejected by the management. Therefore, from the aforesaid oral evidence of the management witness not challenged in cross examination as well as the first party and the documents marked at Ex.M1 to M9 for the management and the documents marked at Ex.W1 to W3 for the first party, it becomes crystal clear that the first party was being engaged by the management bank as a temporary part time Sweeper earlier to the death of her mother Smt. Prabhavathi whenever she was remaining absent from duty. In this capacity the first party as noted above, worked for a period of 100 days in between the year 1992 and 1997. It is further seen from the records as well as the aforesaid oral evidence

that after Smt. Prabhavathi expired on 30-5-1999 once again the first party was being engaged as a temporary part time sweeper w.e.f. 2-12-1999 and worked as such up till 30-3-2000 for a period of 119 days. It can be further seen from the evidence brought on record the on record that the management then engaged the services of said Miss Baby whose name was sponsored through Employment Exchange and then once again the first party was engaged in service w.e.f. 1-4-2000 under the mistaken fact that the first party's name was sponsored through Employment Exchange. The management after having realized the mistake took back Miss Baby as Badli part time Sweeper whose name was sponsored through Employment Exchange and then relieved the first party from duties w.e.f. 6-4-2000, when she had hardly worked for a period of six days on her fresh engagement. Therefore, as could be read from the records and the evidence brought on record, first party worked for a total period of 100 days intermittently in between the year 1992 and 1997 earlier to the death of her mother in her place whenever she was absent from duty and it is after her death she was again engaged by the management bank as a Part Time Sweeper on temporary basis from 3-12-1999 to 30-3-2000 for a period of 119 days. Therefore, it gets clear that neither in between the year 1992 and 1997 nor in between 3-12-1999 and 30-3-2000 the first party worked for a period of 240 days or more continuously, that means she did not work for this statutory period in any calendar year either earlier to the death of her mother or subsequent to her death.

9. Now, the next question to be considered was whether the first party worked with the management in place of her mother subsequent to her death presuming that she was taken in service on compassionate ground. Undisputedly, there is no order by the management in favour of the first party appointing her as a part time sweeper in place of her mother on compassionate ground. In fact the request made by the first party for such an appointment came to be rejected by the management as per the letter dated 22-7-2000 at Ex.W3, the document produced by the first party, herself. The fact that her name was not sponsored through the Employment Exchange is very much admitted by the first party herself and she did not dispute the fact that name of said Miss Baby was sponsored through Employment Exchange. Therefore, no fault can be had with the management in relieving the first party from her duties by the impugned order at Ex.M9 and engaging the services of said Miss Baby in her place after realising that the first party could not have been engaged as part time sweeper to the regular post of Sweeper in place of her mother or in place of said Miss Baby. Therefore, the first party fails to establish before this tribunal that she worked with the management for a period of 240 days or more during any calendar year much less immediately before her services were terminated or that she was working with the management in place of her mother on compassionate

ground etc. In the result, the aforesaid order at Ex.M9 made by the management in relieving the first party from her duties cannot be found fault with much less to hold that the action of the management in relieving the first party from her duties by the said order was illegal and unjustified. In the result, the first party fails and the reference deserves to be rejected. Hence the following Award.

AWARD

The reference is rejected. No costs.

(Dictated to PA transcribed by her corrected and signed by me on 7th May 2007)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 21 मई, 2007

का. आ. 1771.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ़ महाराष्ट्र के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलोर के पंचाट (संदर्भ संख्या 40/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-2007 को प्राप्त हुआ था।

[सं. एल-12012/50/2004-आई.आर. (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S. O. 1771.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 40/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra, and their workmen, which was received by the Central Government on 17-5-2007.

[No. L-12012/50/2004-IR(B-ID)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BANGALORE

PRESENT : Shri A. R. Siddiqui,
Presiding Officer

C.R. No. 40/2004

IPARTY

Shri K.M. Mallesh,
No. 23, Ijoor, Naganakatte,
Ramanagaram Towan,
Rural District,
Bangalore.

II PARTY

The Regional Manager,
Bank of Maharashtra,
15, Police Station Road,
Basavangudi,
Bangalore-560064

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* order. No. L-12012/50/2004/IR (B-II) dated 28th June 2004 for adjudication on the following schedule.

SCHEDULE

"Whether the action of the management of Bank of Maharashtra is justified in imposing the punishment of Compulsory Retirement from Service on Shri K.M. Mallesh w.e.f. 3-3-2003? If not, what relief he is entitled to?"

2. The first party workman by his claim statement, challenged the impugned punishment order retiring him from services compulsorily as unjust and illegal, the findings of the enquiry officer holding him guilty of the charges of misconduct as perverse and arbitrary and the proceedings of the enquiry as opposed to the principles of natural justice.

3. The management by its Counter Statement however, asserted and maintained that the impugned punishment order retiring the first party workman from his services compulsorily was legal and justified keeping in view the findings of the enquiry officer holding him guilty of the charges, grave in nature and that the proceedings of enquiry were conducted against the first party in accordance with the principles of natural justice.

4. Keeping in view the respective contentions of the parties about the validity and fairness or otherwise of the enquiry proceedings, this tribunal on 2-12-2004 framed the following Preliminary Issue:

"Whether the Domestic Enquiry conducted against the first party by the Second Party is fair and proper?"

5. During the course of trial of the said issue, the management examined MW1 and got marked 4 documents at EX.M1 to M4. The first party examined himself as WW1 and thereupon, after having heard the learned counsels for the respective parties this tribunal by order dated 4-4-2006 recorded a finding over the above said issue in favour of the management holding that enquiry conducted against the first party by the management is fair and proper. Thereupon the matter came to be posted to hear the parties on merits of the case. From 26-4-2006 to 4-9-2006, the matter underwent several adjournments giving opportunity to the learned counsel for the first party to advance his arguments on merits of the case i.e. on the alleged perversity of the findings.

6. When the matter was taken up on 3-10-2006, adjournment was sought on behalf of Shri V.S. Naik, learned counsel representing the first party on the ground that the first party is no more and that LR application will be moved. On 29-1-2007, when, the learned counsel for the first party

as well as the learned counsel for the Second party remained absent, arguments were taken as heard and the matter was posted for a ward. On 2-2-2007, on the oral request of Shri S. Ramesh for Shri V. S. Naik once again the matter came to be posted for arguments, finally. On 20-2-29/007 and 1-3-2007, learned counsels for the respective parties did not turn up and case was finally posted for hearing on 22-3-2007, on which date Shri Ramesh for Shri V.S. Naik submitted that the first party is dead and none has approached him as LRs. Therefore, he left the matter with the court to pass necessary orders as deemed fit.

7. Therefore, as seen above, the DE conducted against the first party has been held to be fair and proper and the next question to be considered by this tribunal was whether the enquiry findings suffered from perversity and whether the impugned punishment order in retiring the first party from service compulsorily was bad in law. As noted above, despite several opportunities given to the first party, learned counsel representing the first party did not advance his arguments on the above said two points and ultimately on 3-10-2006 as noted above, reported the death of the first party. As noted above, once again on 22-3-2007 learned counsel representing the first party submitted that the first party being dead no LRs are coming forth to represent him and he leaves the matter with the court to pass necessary orders. Therefore, under the above said facts and circumstances of the case this tribunal is left with no alternative but to hold that the proceedings before this tribunal cannot be proceeded ahead nor can be allowed to be pending any more as the first party is already reported to be dead and no LRs on his behalf have come on record. In the result, the only order to be passed would be to abate the proceedings. Hence the following Award.

AWARD

The reference is dismissed as proceedings stand abated. No costs.

(Dictated to PA transcribed by her corrected and signed by me on 1st May, 2007)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 21 मई, 2007

का. आ. 1772.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 15/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-5-2007 को प्राप्त हुआ था।

[सं. एल-12011/289/2003-आई.आर. (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 21st May, 2007

S. O. 1772.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 15/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Indian Bank, and their workmen, which was received by the Central Government on 17-5-2007.

[No. L-12011/289/2003-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

PRESENT : Shri N.K. R. Mohapatra,
Presiding Officer., C.G.I.T.-cum-Labour Court,
Bhubaneswar.

INDUSTRIAL DISPUTE CASE No. 15/2004

Date of Passing Award - 17th April, 2007

BETWEEN:

The Management of the Regional Manager,
Indian Bank, Circle Office,
117/118, Station Square, Bhubaneswar
Orissa, Pin-751 001

...1st Party-Management

AND

Their Workman, represented through the
The General Secretary,
Indian Bank Employees Union,
C/o. Indian Bank, 32, Ashok Nagar,
Bhubaneswar, Orissa-751 009

...2nd Party-Union

APPEARANCES:

Shri G. Satyanarayana. For the 1st Party-
management

Shri Jagdish Chandra Jena, For the 2nd
General Secretary. party-Union.

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No.L-12011/289/2003(IR (B-II), dated 8-3-2004.

“Whether the demand of the Indian Bank Employees Union for appointment of Shri K.C. Das, Sr. Cashier of Puri Branch to the post of Computer Operator on permanent basis is legal and justified? If not, what relief the workman is entitled to?”

2. The above reference is the outcome of a dispute raised by the Indian Bank Employees Union, Bhubaneswar, Orissa espousing the causes of the workman Shri K.C. Das, a so-called Senior Cashier of Puri Branch Bank of the Management.

3. Admittedly the Management-Bank is having its Corporate Office at Chennai while one of its circle office is located at Bhubaneswar exercising control over the Puri Branch. It is alleged by the Union that the workman Shri K.C. Das worked as a Cashier in the above Puri Branch from 17-8-1994 drawing necessary cash allowance on permanent basis. Subsequently after computerization of the said branch he was posted in the self same branch as Computer Operator, a special allowance post, on permanent basis with effect from 12-8-2002 as per the Industry Level Settlement. As per the above settlement assignment of Special allowance post should be on the basis of seniority. But when the Management wanted to assign such post on rotation-wise in its branch office at Bhubaneswar, a dispute was raised and ultimately it was decided by the Tribunal in its award dated 20-11-2002 not to post persons on rotation-wise in the post of Computer Operator. As in regard to the same the Management thought of posting its employees on rotation basis, the workman being apprehensive of his transfer from the post of Computer Operator raised a dispute through the Union culminating the same in the present reference. It is prayed by the Union to direct the Management not to disturb the workman from functioning as Computer Operator by posting him in some other capacity, the post of computer operator being a permanent special allowance post by nature.

4. The Management on the other hand, besides pleading about the unscrupulous demand of the Union has contended that the Union in question has no locus standi to raise such a dispute, the same not being a recognized Union. It is also pleaded that posting of persons on rotation wise being in accordance with a tripartite agreement with the Federation of Indian Bank Employees Union (FIBEU) affiliated to AIBEA the present Union has no locus standi to challenge the same in a circumvent manner by stating as if there was some Industry level settlement contrary to the same. Coming to an earlier award dated 20-11-2002 of the Tribunal to which the Union has referred, it is further contended by the Management that the subject-matter of that case is different from the present and so much so the matter is still subjudice before the High Court of Orissa.

5. As to the status of the workman in question it is further averred by the Management that the workman was never holding the post of a Cashier on special allowance on permanent basis or as a computer operator thereafter on permanent basis as claimed by the Union. According to it soon after the implementation of Computer system clerical staff having knowledge in computer were posted in different counters/seats having such a computer facility and for this

they were offered with some extra special allowance. Accordingly on the basis of routine allocation of work the workman Shri K.C. Das was simply allocated with the duties of cash receipt from 12-8-2002 on a rotational basis for a temporary period of six months as per the Bank's policy in vogue. But he was never designated as Computer Operator as it was impossible in view of the settlement dated 23-7-1994 with the recognized Union according to which the work which attracts computer allowance was only to be rotated among other eligible staff members for a period of six months. It is further contended that except the above referred agreement with the recognized Union then was no other industry based agreement as claimed by the Union and therefore the workman is not entitled to be posted permanently as a Computer Operator, the entire pleading of the Union being baseless and imaginary.

6. On the basis of above pleadings of both the parties the following two issues were framed.

ISSUES

1. Whether the demand of the Indian Bank Employees Union for appointment of Shri K.C. Das, Senior Cashier of Puri Branch to the Post of Computer Operator on permanent basis is legal and justified?

2. If not, to what relief the workman is entitled.

7. Besides producing certain circulars/Bank Orders each party has examined one witness from their side.

ISSUE No. 1 & 2

8. These two issues are taken up together as they are inter-linked. While giving a partial go by to the stand of the Union, the workman (W.W.1) stated that from 17-8-1994 to 18-2-2003 he worked as Cashier on special allowance on permanent basis and thereafter he was transferred to deposit section from 19-2-2003 to work as a Clerk without any special allowance though according to Circular No. 101/91-92 dated 19-10-1991, (a reference to which has been made in another circular marked Ext.-5) he should not have been deprived of the special allowance which he was getting as a Cashier. The workman has also produced some office order to show his posting as a Cashier which has been denied by the Management. But this part of the evidence of the workman needs no answer, the same being outside the purview of the reference.

9. Coming to the terms of reference the workman further contended that since he was the senior-most person in the branch he is entitled to be posted as Computer Operator on permanent basis as per the letter No. 1057/99 dated 14-9-1999 (Ext.-4) issued by the Zonal Office at Calcutta. But on perusal of the same it is gathered that the same is neither a circular nor a letter issued on the basis of a circular of the head office. It is simply a letter issued by Calcutta Zonal Office to all its branch banks at Calcutta to collect and forward to the Zonal Office for preparation of a panel all the applications received from interested computer knowing persons for their time to time posting in different

branch banks within Calcutta city including Howrah, Shibpur, Liluah, Babudangar, Serampore, Chinsurah. Therefore, this letter (Ext.-4) is found to be of little help to the workman. Moreover there is nothing in it that the senior-most employee of a branch is to be posted as Computer Operator on permanent basis as claimed by the Union for the workman.

10. During cross-examination the workman admits that there is no sanctioned post of a computer operator in Puri Branch but those of the employees who are asked to operate the computer are simply being called as Computer Operator and these computer operators besides operating the computer are also required to attend to their cadre jobs. Basing on a letter (Ext.-4) of Zonal Office, Calcutta he claims that he being the senior most persons of Puri branch is entitled to be posted as Computer Operator after the computerization of the branch in the year 2002. But on perusal of the said document as discussed earlier, it is noticed that the same is not at all a circular having wider applicability. It rather indicates that at a pre-computerization stage the said letter was issued to different branch banks of West Bengal to collect applications from desirous persons for preparation of a temporary panel of computer operators for their subsequent posting in different branch banks of West Bengal on special allowances. Therefore on the basis of said office order of the Zonal Office an employee posted outside Calcutta can not claim that same is equally applicable to him. Besides there is nothing in that letter by which one can claim the post of a computer operator purely on the basis of station seniority on permanent basis.

11. On the other hand Ext.-A/3 a circular of 1994 issued by the Personnel Department of the bank indicates that prior to issuance of the said circular the clerical staff of different branch banks were posted rotation-wise for three months on special allowances to work as Computer Operator. Since the period of such posting was only for three months on the demand of the Union vide settlement dated 23-7-1994 the said period was increased to six months and in case of Data Entry Operators the period of rotation was increased to 15 months from 12 months. Thus in view of the above position a person can not claim to be posted permanently as Computer Operator purely on the basis of Stations Seniority and as such there appears no force in the demand of the Unions.

12. It is contended by the Union in its claim statement that there was an industry level settlement under which special allowance posts like the post in question are alone to be manned on seniority basis but not on rotation basis. It is further averred in his claim statement that in an earlier award No. 793, dated 20-11-2002 this Tribunal has imposed restrictions not to post persons on rotation in special allowance carrying post. But in support of such pleadings no documents has been filed by the Union either to speak about the so-called industry level settlement or about the previous award. Therefore on an overall

consideration of the facts on record it is held that the Management is not at all obliged to post permanently the workman Shri K.C. Das as a Computer Operator on the basis of his station seniority ignoring the circulars issued by its Head Office in tune with the settlement dated 23-7-1994 with the Union as contained in Ext.-A/3.

13. Accordingly the reference is answered in favour of the Management and against the Union.

14. Reference is answered accordingly.

Dictated & Corrected by me.

N. K. R. MOHAPATRA, Presiding Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, BHUBANESWAR

I.D. CASE No. 15/2004

The Management of the 1st Party-Management
Regional Manager,
Indian Bank

Versus

Their Workman. 2nd Party-Workman.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE WORKMAN

Workman Witness No.1 : The workman Himself
Shri Kailash Chandra Das.

LIST OF WITNESSES EXAMINED ON BEHALF OF THE MANAGEMENT

Management Witness No.1 : Shri Prafulla Kumar Behera.

LIST OF EXHIBITS ON BEHALF OF THE 2ND PARTY-WORKMAN

- Ext.-1 - Copy of the Bank Circular.
- Ext.-2 - Copy of the Circular issued by the Zonal Office of Bank at Calcutta.
- Ext.-3 - Copy of Office Order.
- Ext.-3/1. - Copy of the Office Order.
- Ext.-3/2. - Copy of the Office Order.
- Ext.-3/3. - Copy of the Office Order.
- Ext.-3/4. - Copy of the Office Order.
- Ext.-3/5. - Copy of the Office Order.
- Ext.-3/6. - Copy of the Office Order.
- Ext.-3/7. - Copy of the Office Order.
- Ext.-3/8. - Copy of the Office Order.
- Ext.-4. - Copy of the letter dated 14-9-1999
- Ext.-5. - Copy of Circular dated 12-8-2005.

LIST OF EXHIBITS ON BEHALF OF THE 1ST PARTY-MANAGEMENT

- Ext.-A - Copy of the Circular dated 31-1-1991.
- Ext.-A/1 - Copy of the Circular dated 19-10-1991.

Ext.-A/2 - Copy of the Circular dated 6-5-1992.
 Ext.-A/3 - Copy of the Circular dated 25-8-1994.
 Ext.-A/4 - Copy of the Circular dated 1-8-1996.
 Ext.-A/5 - Copy of the Circular dated 19-8-1998.

नई दिल्ली, 22 मई, 2007

का. आ. 1773.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना के पंचाट (संदर्भ संख्या 32(C)/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-5-2007 को प्राप्त हुआ था।

[सं. एल-12011/188/2003-आई.आर. (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 22nd May, 2007

S. O. 1773.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 32(C)/2003) of the Industrial Tribunal Patna (Bihar) as shown in the Annexure, in the Industrial Dispute between the management of UCO Bank, and their workmen, which was received by the Central Government on 22-05-2007.

[No. L-12011/188/2003-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, SHRAM BHAWAN, BAILEY ROAD, PATNA

Reference Case No. 32(C) of 2003

Between the management of UCO Bank, R.O. Mauryalok Complex, A Block, 4th Floor, Patna and their workmen represented by UCO Bank Employees Association, C/o. UCO Bank, Exhibition Road, Patna.

For the Management : None.

For the Workmen : Shri B. Prasad, State Secretary, UCO Bank Employees Association, Patna.

Present : Vasudeo Ram, Presiding Officer, Industrial Tribunal, Patna.

AWARD

Patna, dated the 14th May, 2007

By adjudication order No. L-12011/188/2003-IR(B-II) dated 27-11-2003, the Govt. of India, Ministry of Labour, New Delhi, has referred under clause(d) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter to be called as 'the Act' for brevity) the following dispute between the management of UCO Bank, R.O. Mauryalok Complex, A-Block, 4th Floor, Patna and

their workmen represented by UCO Bank Employees' Association, C/o. UCO Bank, Exhibition Road, Patna to this Tribunal for adjudication on the following :

"Whether the claim of the Union that Smt. Kiran Devi qualifies for compassionate appointment as an empanelled daily rated workman consequent upon the death of her husband Shri Babloo during the pendency of the dispute raised on his behalf for permanent absorption in Patna Main Branch of UCO Bank is justified ? If yes, what relief the workmen is entitled to?"

2. On receipt of the reference the notices were issued by this Tribunal. The parties appeared and filed their respective written statements. The case of the UCO Bank Employee's Association (hereinafter referred to as 'the Association' for brevity) as made out in its written statement is that Shri Babloo, the husband of Smt. Kiran Devi was orally appointed in June, 1982 in UCO Bank, Patna Main Branch as daily rated peon. Despite signing of a settlement at apex level between the management of UCO Bank and the workmen Union for regularising the services of daily rated workmen who worked for 240 days during the period 12-10-1986 and 12-10-89 Shri Babloo was not empanelled for regularisation and hence an industrial dispute was raised which culminated in reference and passing of an award by the Central Govt. Industrial Tribunal No. 2, Dhanbad directing the management to empanel Shri Babloo for regularisation. Accordingly Shri Babloo was empanelled for regularisation. Further, the case of the Association is that as Shri Babloo was not regularised an industrial dispute was raised which was ultimately referred for adjudication and as was numbered as Ref. Case No. 10 C of 2003. During the pendency of the Reference Case No. 10 C of 2003 Shri Babloo fell ill and ultimately died on 6-11-2001, leaving behind his widow and children. As late Babloo was empanelled daily rated worker, he was not enrolled as a member of Provident Fund, Gratuity and Pension Fund etc. hence his widow did not get any retirement benefits. Further the case of the Association is that after the death of her husband Smt. Kiran Devi made representation to the Bank for her empanelment on compassionate ground as an empanelled daily rated worker but the management turned down her request vide letter dated 12-1-2002. Thereafter Smt. Kiran Devi approached 'the Association' which raised this industrial dispute. The Association contends that there are provisions for appointment on compassionate ground for the widow for a deceased employee in the Bank. Late Babloo was getting wages monthly and was also paid wages for Sundays and Holidays and was also paid Bonus as per the provisions of the Payment of Bonus Act, 1965. His status was that of a temporary worker awaiting regularisation. It has been prayed that Smt. Kiran Devi be appointed on compassionate ground as an empanelled daily rated peon and thereafter be regularised in Bank's Subordinate Cadre.

3. The contention of the management as mentioned in the written statement is that Smt. Kiran Devi is not a workman as defined under Section 2(S) of 'the Act' and the dispute raised by the Union is not an industrial dispute as defined under Section 2(K) of 'the Act' as she was not employed with the management nor She could become the member of the Union. Further, according to the management Smt. Kiran Devi was not an empanelled daily rated casual worker. Her husband Shri Babloo was a casual worker who died on 6-11-2001 during the pendency of Ref. Case No. 10 C of 2003. Hence the claim of the Union for compassionate appointment of Smt. Kiran Devi is not maintainable. According to the management there is no provision for compassionate appointment for the casual workers. Their dependants can not claim appointment on compassionate ground on the basis of circular dated 21-9-1999. The said circular is for appointment of the dependants of the deceased permanent regular employee on compassionate grounds. It is not applicable to the casual employees. It is also contended by the management that not a single appointment on compassionate grounds of the dependants of deceased casual worker has been made. According to the management the relief claimed is fit to be rejected.

4. Upon the pleadings of the parties the following points arise out for decisions—

- (i) Is the dispute raised an industrial dispute as defined in the Industrial Disputes Act, 1947?
- (ii) Whether the claim of the Union that Smt. Kiran Devi qualifies for compassionate appointment as an empanelled daily rated workman consequent upon the death of her husband Shri Babloo during the pendency of the dispute raised on his behalf for permanent absorption, is justified?
- (iii) To what relief or reliefs Smt. Kiran Devi is entitled?

FINDINGS

Point No. (i) :

5. Before entering into the discussions of evidence, I would like to mention that after filing the W.S. the management left taking steps in the proceeding and hence the hearing has been done ex-parte. Mrs. Monju Sur (W.W. 1) has been examined on behalf of the Association besides Kiran Devi (W.W. 2). A few documents have also been produced and marked Exhibits on behalf of the Association. No evidence either oral or documentary has been adduced on behalf of the management.

6. 'Industrial Dispute' has been defined under Section 2(K) of the Act as follows :—

"Industrial Dispute means any dispute or difference between employers and employees, or between employers and the workmen, or between workmen and the workmen, which is connected with the employment or non-

employment or the terms of employment or with the condition of labour, of any person;

From the said definition it comes out that in order to call a dispute an industrial dispute—

- (a) there should be a dispute or difference,
- (b) the dispute or difference should relate to an industry;
- (c) the dispute or difference should be between the employers and the employees or between employer and the workmen, or between the workmen and the workmen;
- (d) the dispute or difference is connected with the employment or non employment; or terms of employment, or the conditions or labour of any person.

The expression 'any person' is significant in this regard. Any person does not necessarily mean a workman nor it means any outsider. The crucial test is one of 'community of interest' with the concerned person and subjected the construction of the expression 'any person' to the following two limitation :—

- (i) The dispute must be a real dispute between the parties to the dispute so as to be capable of settlement or adjudication by one party to the dispute giving necessary relief to the other; and
- (ii) the person regarding whom the dispute is raised must be one in whose employment, non employment, terms of employment or conditions of labour, as the case may be, the parties to the dispute must have direct or substantial interest.

In this case the dispute has been raised by the Union, UCO Bank Employees' Association. The copy of memorandum dated 13-1-2002 submitted to the management by the Staff members of UCO Bank has been filed and marked Ext. W/2. Smt. Kiran Devi for whom the dispute has been raised is admittedly not an employee of the Bank but at the same time she is not completely an outsider. She is the heir and dependant of Late Shri Babloo who was admittedly a workman and Smt. Kiran Devi claims employment on compassionate ground on the death of her husband. The dispute is with regard to the employment. Thus all the four ingredients of 'industrial dispute', namely dispute, industry, party and the subject matter are present in this case. Under the circumstances I find and hold that the dispute raised in this case is an industrial dispute within the meaning and definition of industrial dispute under Section 2(K) of 'the Act'. This point is decided accordingly.

Point No. (ii)

7. Kiran Devi (W.W. 2) is the widow of Late Babloo. She has stated that her husband died on 6-11-2001. She made application for her appointment but the same was turned down by the management. The copy of letter

dated 12-1-2002 of the management in this regard has been marked Ext. W/3. The copy of death certificate of Shri Babloo is Ext. W/4. Mrs. Monju Sur (W.W.1) who was also an employee of UCO Bank has stated that there was settlement between the management and the workmen Union/Federation that the employee who served in subordinate cadre as casual workers for a period of 240 days or more during the period of 3 years immediately preceding the settlement would be absorbed as permanent employee. The said settlement was arrived at on 12th October, 1989. The copy of the said settlement is Ext. W. A copy of panel of such workers prepared by the management is Ext. W/1 in which the name of Shri Babloo finds mentioned at serial No. 206 with the date of his 1st engagement 25th November, 1986. It is also the case of 'the Association' that there was a reference case in which an award by the Central Government Industrial Tribunal No. 2, Dhanbad was passed and accordingly Shri Babloo was empanelled for regularisation. It is not a disputed fact that Shri Babloo died before he could be regularised. Thus it is an admitted fact that Shri Babloo was an empanelled daily rated worker.

8. Now it is to be considered as to whether the heir or dependant of an empanelled daily rated worker is entitled to appointment on compassionate ground or not. The onus lies on the workmen to show that there is rule or precedence in UCO Bank that on the death of an empanelled daily rated worker his heir or dependant would be appointed on compassionate ground. The Association has not produced any such circular or has shown any precedence that the heir or dependant of an empanelled deceased workman has been appointed on compassionate ground. As against that I find a copy of circular No. CHO/PMG/19/99 dated 21-9-99 entitled 'Scheme for recruitment of dependants of deceased employees on compassionate grounds' on record in which 'Employee' means—A regular employee whether in the Subordinate, Clerical or Officer's Cadre, whether confirmed or on probation and whether working full time or permanent part time. But will not include temporary or casual worker. Under the circumstances I find that as the services of Shri Babloo was not regularised and he was only on empanelled daily rated worker his heir/dependant can not claim appointment on compassionate ground. Under the circumstances I find and hold that the claim of the Union for compassionate appointment of Smt. Kiran Devi as an empanelled daily rated worker is not justified. This point is decided accordingly.

Point No. (iii)

9. Keeping in view the discussions made above and the findings arrived at on point No. (ii) I find and hold that Smt. Kiran Devi is not entitled to any relief. This point is answered accordingly.

10. In the result I find and hold that the claim of the Union that Smt. Kiran Devi qualifies for compassionate

appointment as an empanelled daily rated workman consequent upon the death of her husband Shri Babloo during the pendency of the dispute raised on his behalf for permanent absorption is not justified and Smt. Kiran Devi is not entitled to any relief.

11. And this is my award.

Dictated and corrected by me.

VASUDEO RAM, Presiding Officer

नई दिल्ली, 22 मई, 2007

का. अ. 1774.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भा.को.को.लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-I के पंचाट (संदर्भ संख्या 18/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-5-2007 को प्राप्त हुआ था।

[सं. एल-20012/201/2002-आईआर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 22nd May, 2007

S. O. 1774.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 18/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Dhanbai-I now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of BCCL and their workman, which was received by the Central Government on 18-5-2007.

[No. L-20012/201/2002-IR(C-1)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
DHANBAD

PRESENT:

Shri Md. Sarfaraz Khan, Presiding Officer.

Reference. No. 18/2003

Party :—Employer's in relation to the Management
of Bhoura (S) colliery of M/s. BCCL

Vrs

Sri Mithu Bouri Ex-M.C.L. of Bhoura (South) Colliery of
M/s. BCCL

Representative :—

For the Management : Sri. S.C. Gour, Advocate

For the Workman : Sri. U.N.Lal, Advocate

Industry :— Coal

State :—Jharkhand

Dated 9th April, 2007

AWARD

After having received the orders No. L-20012/201/2002-IR(C-I) dated 24-1-2003 of the said reference from the Govt. of India Ministry of Labour, New Delhi for adjudication of the dispute a reference case No. 18 of 2003 was registered on 5-2-2003 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the scheduled date and file their written statement, along with the relevant document and a list of witnesses in support of their claims. In pursuance of the said order notices through the registered post were issued to the parties concerned. Sri S.C. Gour, Advocate and Sri U. N. Lal, Advocate appeared in the Court to represent the Union and the Management respectively and filed their written statement in support of their claim.

The case of the Union in brief compass as set forth in its written statement is that the workman was appointed as a piece rated Miner loader having been posted at B.C.C.L. Bhowra (S) Colliery.

The Main case of the union is that the delinquent employee remained absent for the period of two months w.e.f. 18-8-2001 due to jaundice and was under the treatment of village Vaidya he was charge sheeted for the said unauthorised absence from the duty. The copy of the charge sheet is claimed to have not been properly sent to the workman nor any explanation was ever submitted to the management. The domestic enquiry was conducted and concluded ex-parte in absence of the workman and subsequently on the basis of the said ex-parte enquiry proceeding alongwith its finding the workman was dismissed from the service for the said simple case of unauthorized absence of about two months only.

The further case of the union is that the unauthorized absence of two months on the reasonable cause and under the compelling circumstance beyond the control of the employee. Can not be treated as a gross-misconduct and the same cannot warrant a penalty of major punishment of dismissal.

The punishment is claimed to be dis-proportionate to the misconduct proved. The union has sought relief for setting aside the order of dismissal and reinstatement of the workman concerned with full back wages.

On the other hand defence case of the management in short as per the averment made in its writtern statement is that the delinquent workman was issued with a charge sheet for unauthorised absence from his duty w.e.f. 18-8-2001 without any leave or prior permission or information to the Management. The domestic enquiry was held as no explanation of the charge sheet issued and submitted by the workman concerned and accordingly notice of enquiry were issued by the enquiry officer fixing the date of enquiry on 7-11-2001, 26-11-2001 and 24-12-2001 but the charge sheeted workmen did not

participate in the enquiry and as such the ex-parte enquiry was conducted in absence of the workmen concerned.

The further defence of the Management is that after submission of the enquiry preceding along with its findings the disciplinary Authority sent. The copy of the enquiry report asking 2nd show cause to the workmen concerned. The delinquent workmen had submitted his reply which was not found satisfactory. His past record was also considered but the same was not found satisfactory and he was also held guilty for the misconduct of habitual absnteeism. The Management has denied the contents of the written statement filed by the side of the union and has claimed that the penalty imposed upon the workman concerned is just, fair and proportioned to the alleged proven misconduct and the delinquent employee is not entitled to seek any relief.

From perusal of the record it transpired that the case was pending for the examination of the witnesses from the side of the management. In the mean time a copy of the memorandum of settlement dtd. 14-11-06 arrived at between the management Eastern Jharia, Bhowra area and the workmen concerned has been filled in the court on 9-4-2007 on behalf of the management praying there in to accept the same and to pass an award as per the terms of the settlement.

Heard the learned lawyer for the mangement and the representative of the workmen concerned on the point of the settlement. Perused the copy of the memorandum of settlement dtd. 14-11-06 arrived at between the management and the delinquent employee. Both the representatives of the parties and Sri A. K. Sinha, Dy. Chief Personal Manager, Eastern Jharia area of M/s. BCCL and the delinquent employee Sri Mithu Bouri, Ex-Loader of the Colliery have put their signature on the Memorandum of settlement arrived at between the parties on certain terms and condition. It is agreed by the parties that Sri Mithu Bouri the workmen will be reinstated as badli loader on initial basic pay without any claim for any back wages or anything for the period of idleness and the whole idle period will be treated as dies- non and will be reckoned for the purpose of gratuity only. Altogether there are eight terms and condition for the settlement arrived at between the parties. Both the party have came to the settlement at their sweet will and free consent.

In the aforesaid prevailing facts and circumstances of the case and the memorandum of settlement duly signed by the respondents parties and their representative in presence of the workmen. It is hereby.

ORDERED

That let an award be and the same is passed as per the terms and condition of the memorandum of settlement arrived at between the parties.

The memorandum of settlement dtd. 14-11-2006 filled today is accepted and the same shall form part of the award.

Send the copies of the award to the Govt. of India Ministry of Labour and Employment for information and needful. The reference is accordingly disposed off.

MD. S. KHAN, Presiding Officer

**MEMORANDUM OF SETTLEMENT ARRIVED AT
BETWEEN THE MANAGEMENT OF EASTERN
JHARIA AREA, M/S. B.C.C.L. AND THEIR
WORKMAN, SHRI MITHU BOURI, EX-MINER/
LOADER, P.NO.-02956829, BHOWRA(S) COLLIERY,
IN FORM 'H' AS PER I.D. RULES, 1957.**

Management side :

1. Shri A.K. Sinha,
Dy. Chief Personnel
Management, Eastern
Jharia Area, M/s. BCCL,
P. O. : Bhowra, Dist. :
Dhanbad.

Workman side :

1. Sri Mithu Bouri,
Ex-M/Loader, P. No.
2956829, Bhowra(s)
Colliery.
2. Sri Md. Akhtar Ali,
Area Secretary,
N. C. W., EJ Area.

SHORT RECITAL OF THE CASE

Shri Mithu Bouri, bearing P. No. 02956829, was working as Miner/Loader at Bhowra(s) Colliery in permanent roll of M/s. BCCL. He was dismissed from service of the Company w.e.f. 10-2-2002 on account of proved misconduct of unauthorized absence from duty w.e.f. 18-08-2001.

However, the management of BCCL has now been pleased reinstate him in service as a Badli workman on certain terms and conditions, as communicated by the C. G.M. (P&IR), BCCL, Koyla Bhawan, vide his letter No. BCCL/Per/IR.Reinstatement/06/6502 dated 30-08-2006 addressed to him with a copy to the G.M., EJ Area & others. Accordingly, this Memorandum of Settlement in Form-'H' as per I.D. Rules, 1957 is being arrived at between the Management of E.J. Area and Shri Mithu Bouri and his representing Union - N. C. W.S., to reinstate him in service as a Badli workman on the following terms & conditions.

TERMS & CONDITIONS

1. Sri Mithu Bouri will be reinstated as Badli Miner/Loader on initial basic pay at Bhowra(s) Colliery, subject to his Medical Fitness by the Area Medical Board.
2. His reinstatement will be subject to his identity being established in reference to Company's records and documents.
3. He should not have attained the age of superannuation.
4. He should not have withdrawn his CMPF and Gratuity, otherwise, it will be treated as a fresh appointment instead of reinstatement as Badli worker.

5. He should not have raised any I.D. before the ALC(C), or filed any case before any Court regarding his dismissal and if so, he will withdraw the case before resumption of duty on reinstatement.
6. He will not claim for any back wages or anything for the period of idleness and the whole idle period will be treated as dies-non and will be reckoned for the purpose of gratuity only.
7. His confirmation as a permanent employee will be subject to completion of 190 days attendances in underground/240 days attendance on surface in a calendar year.
8. He will be abide by the Coal Mines Pension Scheme, 1998 and contribution thereof as applicable.

(A.K. Sinha)
Dy. Chief Personnel
Manager, E.J. Area,
BCCL, PO-Bhowra
(Dhanbad)

Sri Mithu Bouri,
Ex-M/L, P. No.
2956829, Bhowra(S)
Colliery.

(Md. Akhtar Ali)
Area Secy. UCWU, EJ Area

Witnesses :—

1. K. P. Sharma 00904102

फैसल रजक 02769941

2. Bhowra (S)

नई दिल्ली, 22 मई, 2007

क्र. आ. 1775.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जेट एयरवेज के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/क्रम न्यायालय मुम्बई-I के पंचाट (संदर्भ संख्या 30/2003) को प्रकटित करती है, जो केन्द्रीय सरकार को 18-5-2007 को प्राप्त हुआ था।

[स. एल-11012/21/2003-आईआर (सी-1)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 22nd May, 2007

S. O. 1775.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 30/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Mumbai-I now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Jet Airways and their workman, which was received by the Central Government on 18-5-2007.

[No. L-11012/21/2003-IR(C-1)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT

JUSTICE GHANSHYAM DASS
 Presiding Officer

REFERENCE NO. CGIT-30 OF 2003

PARTIES: Employers in relation to the management
 of Jet Airways

And

Their workmen.

APPEARANCES:

For the Management : Mr. A.R. Kulkarni, Adv.

For the workman : Workman present in person

State : Maharashtra

Mumbai, dated the 26th day of April, 2007.

AWARD PART-II

This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section I and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 (the Act for short). Vide Government of India, Ministry of Labour, New Delhi, order No. L-11012/21/2003-IR(C-I) dated 27-6-2003. The terms of reference given in the schedule are as follows :

"Whether the action of the management of Jet Airways, Mumbai in dismissing the service of Mr. Mohd. Rafique Pathan w.e.f. 12-3-2002 is legal and justified? If not, what relief is the workman entitled?"

2. Mr. Mohd. Rafique Pathan (workman) was employed by Jet Airways as Driver w.e.f. 1-2-1994. He was issued a charge sheet dt. 29-11-2001 for misconduct on account of absenteeism for a period of 49 days detailed therein, which led to the conduction of domestic enquiry. The Enquiry Officer found the workman guilty after holding a just and proper enquiry in accordance with principles of natural justice. The workman was dismissed from service finally w.e.f. 12-3-2002.

3. The workman challenged the enquiry on the ground of violation of principles of natural justice and also assailed the finding of the Enquiry Officer by alleging it to be perverse. He also alleged that the punishment of dismissal is shockingly disproportionate to the charge of misconduct.

4. Vide Part-I Award dt. 24-10-2005 the enquiry was found to be just and proper in accordance with principles of natural justice. Now the question arises as to whether the finding of misconduct is correct or it is perverse. It is also to be seen as to whether the dismissal is just and

proper or shockingly disproportionate to the charge of misconduct.

5. While passing Part-I Award it was also observed that the finding of the Enquiry Officer is not perverse since the period of absence was admitted and no sufficient explanation was there to explain away the absence. However, specific finding was not given while passing the aforesaid award. In this view of the matter the correctness/perversity of the finding is to be judged at this juncture. The period of absence is nowhere disputed by the workman and still I do not find any evidence what soever to give just explanation for the absence from duty. It was open to the workman to lead some possible evidence on this point but I am sorry to say that no evidence is being led by the workman on this account. The medical certificate filed earlier do not appear to be credible to the extent to give justification to remain absence from duty. The evidence of misconduct appears to be based on sufficient evidence on record by the Enquiry Officer and the same is liable to be confirmed once again. I therefore, hold that the charge of misconduct against the workman is well proved for unauthorized absence of 49 days.

6. Now the question arises as to whether the punishment of dismissal is disproportionate.

7. The contention of the workman appears to be correct on the face of it when it is stated that the workman should not be dismissed from service for a just absence of 49 days but the record speaks otherwise and justified the dismissal for the reason the past record of the workman is very bad. The workman joined the services in the year 1994 and started remaining absent frequently since 1998 for which he was penalized which fact has been admitted by the workman himself in his evidence before this Tribunal. The workman has admitted that it is correct that he was issued a show-cause notice dt. 10-8-1998 for absence. He was again issued a show-cause notice for absence dt. 30-8-99; he was issued warning letters dt. 20-10-1999, 20-11-1999, 13-12-1999 and lastly on 10-1-2001 for remaining absent from duty. He also admitted that he was issued a charge sheet dt. 4-9-2001 for a period of absence of 54 days. The present reference is on the question of dismissal on the basis of subsequent charge sheet dt. 29-11-2001. These proved facts show that the workman is a habitual offender for remaining absent as and when it suits to him does not care for disciplinary action. In this background, the action of the Management cannot be said to be mala fide or disproportionate to the charge of misconduct. In fact, the Management could not afford such an incorrigible Driver for retention in service. The action of the Management is absolutely justified keeping in mind the past poor record of the workman. Hence, the punishment of dismissal cannot be said to be disproportionate to the charge of misconduct and thus illegal or liable to any modification or alteration within the powers under Section 11-A of the Industrial Disputes Act.

8. Hence, the action of the Management in dismissing the service of Mr. Mohd. Rafique Pathan w.e.f. 12-3-2002 is legal and justified and he is not entitled to any relief.

-9. An Award is made accordingly.

JUSTICE GHANSHYAM DASS, Presiding Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT

JUSTICE GHANSHYAM DASS
Presiding Officer

REFERENCE NO. CGIT-30 OF 2003

PARTIES: Employers in relation to the management
of Jet Airways

And

Their workmen (Mr. M.R. Pathan)

APPEARANCES:

For the Management : Mr. A.R. Kulkarni, Adv.

For the Union : Mr. M. Nagle, Adv.

State : Maharashtra

Mumbai, dated the 24th day of October, 2005.

AWARD PART-I

1. This is a reference made by the Central Government in exercise of its powers under clause (d) of sub-section 1 and sub-section 2A of Section 10 of the Industrial Disputes Act 1947 (the Act for short). The terms of reference given in the schedule are as follows :

“Whether the action of the management of Jet Airways, Mumbai in dismissing the service of Mr. Mohd. Rafique Pathan w.e.f. 12-3-2002 is legal and justified? If not, to what relief is the workman entitled?”

2. The second party workman Mohd. Rafique Shkirulla Pathan has filed Statement of claim dated 18-8-2003 wherein the disputant stated that he was in the employment of the First Party with effect from 1-2-1994. His past service record is totally clean, spotless and unblemished. He was served with a charge sheet dated 29-11-2001 which was concocted and vague. He denied to all the allegations. A domestic enquiry was conducted by the Enquiry Officer but he was not offered due opportunity of hearing. He has challenged the enquiry and its report on the following basis :

- (i) The charge sheet dt. 29-11-2001 is totally false, fabricated, concocted and vague because the management is failed to mentioned under which Model Standing Orders the alleged charge sheet has issued.

- (ii) That the management has failed to provide list of witnesses and relevant documents alongwith the charge sheet dt. 29-11-2001.

- (iii) That the Enquiry Officer has failed to explain the procedure of enquiry to the Second Party workman.

- (iv) That the Enquiry Officer has failed to conduct so called domestic enquiry against the Second Party workman in the language which is known to him i.e. in Hindi because Second Party workman has studied upto 9th Standard in his vernacular language i.e. in Urdu and hence he was not able to understand what is going on in the said domestic enquiry.

- (v) That the management has failed to examine the material witnesses in the so called domestic enquiry by not examining Shri S. Gopalkrishnan, H.R. Manager, Western India who has signed the charge sheet dt. 29-11-2001.

- (vi) That the management has failed to produce any relevant documents in the said so called domestic enquiry to prove so called charges which are levelled against Second Party workman specifically the management has not produced leave card as leave record and leave application of the Second Party workman of the relevant period.

- (vii) That the Enquiry Officer has failed to allow Second Party workman to conduct cross-examination of the first party company's witnesses.

- (viii) That the Enquiry Officer has failed to allowed Second Party workman to lead statements/ evidence specifically disallowed him to bring witnesses on behalf of his choice in the so called domestic enquiry to defend his case.

- (ix) That the reports and findings of Enquiry Officer are totally perverse.

3. The First Party has filed written statement dated 26-9-2003 wherein the past record of the workman showing unauthorised absence at intervals has been mentioned and further it has been emphasized that the applicant was absent in unauthorised manner for the relevant period under the enquiry in question with effect from 17-10-2001 to 29-11-2001. Proper enquiry was conducted by an independent Enquiry Officer appointed by the management. Due opportunity of hearing was given to the workman who actually participated in it. He cross-examined the witnesses of the management and did not lead in evidence in defence. The enquiry was conducted in accordance with the Model Standing Order applicable to the workman. The charge of misconduct was proved against the workman vide report

of the enquiry officer dated 22-2-2002. A copy of the enquiry report was given to the workman and he, in turn, filed the reply dated 04-3-2002 pleading mercy from the management. The workman was however, dismissed from service on a consideration of the entire record.

4. At present, I am concerned at this juncture to the extent as to whether the enquiry in the instant case against the workman is fair and in accordance with law.

5. The workman has led evidence in the form of his affidavit. He has been duly cross-examined by the management. No evidence is being led from the side of management.

6. I have heard both the parties and gone through the entire record. I have perused the entire record of the domestic enquiry conducted in this case by one independent person Mr. Gaurang Lakia. The workman was served with the charge sheet (Ex-3) for the unauthorised absence during the month of October and November 2001 as detailed therein. The charge of misconduct was levied for unauthorised absence. The workman duly participated in the enquiry proceedings on each and every date fixed by the Enquiry Officer. The workman was offered due opportunity on each and every date during the course of enquiry. The copies of all the documents were supplied and were kept open for inspection by the workman. The workman was also offered due opportunity for leading evidence in his defence but surprisingly, he did not lead any evidence. The workman claimed that his absence was not unauthorised but it was on account of illness for which he did not lead any evidence whatsoever was being led by the workman to prove his defence for showing that his absence could not be termed to be unauthorized and thus, he was not guilty of misconduct.

7. Regarding the pleas taken by the workman for challenging the enquiry and the findings of the Enquiry Officer, I have to say that the charge sheet is in accordance with due procedure and law. It is not necessary that it should have been mentioned in the charge sheet itself that the enquiry is being conducted under Model Standing Orders. The list of witnesses and relevant documents does not appear to be supplied to the workman by the management on the date of charge sheet but that does not vitiate the enquiry for the obvious reason that the workman duly participated in the enquiry and did not challenge that he was ever put to any prejudice by it. In fact, his absence was admitted by the workman. The procedure followed by the Enquiry Officer was explained on each and every date and every date which is evident from the perusal of the record of the enquiry. No doubt, the enquiry was recorded in English language but that too did not cause any prejudice nor it was ever challenged by the workman before the Enquiry Officer. The non-production of Shri S. Gopalakrishnan (HR) Manager, Western India, for proving the charge sheet dated 13-11-2001 does not make the enquiry vitiated or bad in law. I feel that the production of this

witness was not material. The ground of challenge regarding non-production of any relevant documents by the management during the course of enquiry is frivolous. Whatever documents were brought on record by the management were sufficient for concluding the enquiry. The workman was duly asked to examine the witnesses but he did not avail that opportunity. The workman was allowed the opportunity to lead evidence in defence but he failed to avail that opportunity. In this view of the matter I do not find that the enquiry is vitiated for any of the grounds mentioned in the Statement of claim. The perusal of the record makes it clear that due procedure had been followed by the Enquiry Officer. No prejudice has ever been caused to the workman. The finding of the Enquiry Officer appears to have been concorrectly arrived at. The absence is admitted by the workman. It is apparently unauthorized since no evidence whatsoever was being led by the workman to show justifiable grounds for remaining absence for the period in question. The workman was supplied with the enquiry report and in his reply he did not challenge the finding rather pleaded for mercy.

8. The learned counsel for the applicant has filed three rulings

- (i) 1995 II CLR 1195 Philips India Ltd. Vs. Sangita Balkrishna and others.
- (ii) 1987 II CLR 269 Kumar Ram Nandan Vs. Fluid Power (P) Ltd. and Ors.
- (iii) 2003 (1) CLR 941 Sunam Yellappa Jadhav Vs. Narsinggirji Mills & Ors.

9. The First ruling has no application since it relates to the grant of maintenance.

10. In the second ruling the Honourable Bombay High Court has held that while conducting a domestic enquiry the cardinal principle of labour jurisprudence should be followed by the employer while holding a domestic enquiry against the workman and it should be shown that the enquiry was conducted honestly and bonafidely and that it was not an empty formality. In the present case, I do not find any material on record on the basis of which it may be inferred that the enquiry in question was not conducted honestly and bonafidely and that it was an empty formality.

11. In the last ruling, it has been held by the Honourable High Court of Karnataka that the rules of law of evidence are not applicable to domestic enquiry and hence the Labour Court had erred in holding that the charge was not proved for non-examination of the passengers and thus the order of reinstatement was set aside. I feel that this ruling does not help the workman at all and rather helps the First Party management.

12. On the other side, the learned counsel for the first party management has filed certain rulings to be discussed below.

13. In 1999 (82) FLR 520 Modern Food Industries India Ltd. Vs Hind Industrial Tribunal, West Bengal, the Honourable Calcutta High Court has held that the Standard of proof in the disciplinary proceedings is pre-ponderance of probabilities and not beyond reasonable doubt.

14. In 2003 Lab IC 3408, Mr. Gopal Shetty Vs. Syndicate Bank, Honourable High Court of Karnataka held that the principles of natural justice are not violated if the opportunity of hearing is being offered to the delinquent and he failed to avail that opportunity and further held that the delinquent cannot blame the Enquiry Officer for it.

15. In 2000 (2) LLN 1038 Board of Trustees of Port of Bombay Vs. B.R. Surve, the Honourable High Court of Bombay held that sophisticated rules of evidence under the Evidence Act do not apply to domestic enquiry and it further held that so long there is some material before the Enquiry Officer whereby reasonable and logical conclusion of guilt could be arrived at, and that the Enquiry Officer had conducted the enquiry fairly following the principles of natural Justice and could not be said that the findings are bad in law.

16. In 1998 LAB IC 3085 Kandla Port Trust and Anr. Vs. K.R. Chauhan and another, the Honourable High Court of Gujarat has held that the ambit and scope of disciplinary proceedings is different to that of criminal proceedings and the strict rules of criminal jurisprudence are not applicable for appreciation of evidence in the domestic enquiry. The emphasis is laid for following the principles of natural justice.

17. Considering the entire evidence available on record and the legal position, I conclude that I do not find any material to hold that the enquiry in the present case against the workman is not fair, bad or unjustifiable. I therefore, hold that the enquiry in the present case is fair and proper.

18. The reference would go on for hearing for Part-II Award for which 18th November, 2005 is fixed.

JUSTICE GHANSHYAM DASS, Presiding Officer

नई दिल्ली, 28 मई, 2007

कम.आ. 1776.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दक्षिणी रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, इरनाकुलम, के पंचाट (संदर्भ संख्या 32/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-5-2007 को प्राप्त हुआ था।

[सं. एल-41011/27/2003-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S.O. 1776.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 32/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial Dispute between the management of Southern Railway and their workmen, which was received by the Central Government on 25-5-2007.

[No. L-41011/27/2003-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present

Shri P. L. Norbert, B.A., L.L.B., Presiding Officer

I. D. 32/2006

(I. D. 32/2006 of Labour Court, Ernakulam)

Workman/Union	The Secretary Southern Railway Men's Union Prakash Bhawan Railway Station Road Thrippunithura Ernakulam
	Adv. Shri C. S. Ajit Prakash
Management	The Divisional Personal Officer Southern Railway, Trivandrum.
	Adv. Shri M.C. Cherian

AWARD

This is a reference made by Central Government under Section 10 (1) (d) of Industrial Disputes Act, 1947 for adjudication. The reference is:

"Whether the demand of Southern Railway Men's Union before the management of Southern Railway for payment of washing allowance to the Group 'D' staff working as Sweeper-cum-Porter, Gangman and Gatekeeper is proper and justified? If so, what relief the union concerned in respect of the Gr. D. staff are entitled?"

2. The facts of the case in brief are as follows:

The workmen who are the members of the claimant union were initially appointed as casual labourers and later they were absorbed as permanent employees of the Railway in the post of Sweeper-cum-Porter, Gangmen, Gatekeepers, etc. All those workmen fall under Group 'D' category. They are provided with uniforms. They work in extreme weather conditions and their uniforms get spoiled soon. However they are not given washing allowance. But some of the other categories in Group 'D' are given washing allowance. This is discriminatory and violative of Article 14 of the Constitution. Similar employees in RMS, Post and Telegraph

and Telecommunications are given washing allowance to entire Group 'D' workers. The Gangmen have to work in unhygienic conditions in the track in cleaning and clearing of railway track. Their dress require frequent washing. The treatment of employees in the same group differently is discriminatory and arbitrary.

3. The Railway in their objection contends that the union has no *locus standi* to raise the dispute and represent the employees. The union is not a recognized union. The Railway Board is the only competent authority to consider the claim for washing allowance. The Sweeper-cum-Porters, Gangmen and Gatekeepers are not covered by the circular issued by Railway Board, Ministry of Railways regarding washing allowance. Granting of washing allowance is a policy decision of the Railway and the Court has no jurisdiction to adjudicate on the claim. The claim of the workers is in the active consideration of the Railway Board. At present the workers are not entitled to get washing allowance.

4. In the light of the above contentions, the following points arise for consideration :

- (1) Is the union competent to raise the dispute ?
- (2) Are Sweepers-cum-Porters, Gangmen and Gatekeepers entitled for washing allowance?

The evidence consists of the oral testimony of WW1 & 2 and documentary evidence of Exts. W1 to W4 on the side of workman and MW1 and Exts. M1 to. M5 on the side of management.

5. Point No. (1) :

The cause of 33 workmen whose names are provided in the annexure to the Claim Statement is espoused by Southern Railway Men's Union. According to the Railway it is not a recognized union and the registration of the union stands cancelled. Ext. M1 is produced by Railway to prove that fact. It is a Cancellation Certificate of Registration issued by Registrar of Trade Unions on 11-4-2003. In the light of this cancellation certificate it is contended by the Railway that the union can no more conduct the case on behalf of the workmen. The workmen are not parties to the reference. Therefore the reference is not maintainable. WW2, one of the workers examined before this Court, is not aware whether the registration of the union is cancelled or not. However Ext. M1 shows that the registration stands cancelled. The dispute was raised and reference was made by Government on 20-2-2004. It says that the failure of conciliation report of Assistant Labour Commissioner (Central), Ernakulam was on 31-7-2003. Thus at the time of reference the union had no recognition and its registration was cancelled by the Registrar of Trade Unions w.e.f. 11-4-2003. Had the registration been cancelled after raising the dispute that would not have affected the jurisdiction of this Court to proceed with the adjudication. It is held in *Management of Gammon (India) Ltd. v. State of Orissa*

1974 ILL.J. 34 (Ori) (D.B.) that even if a trade union ceases to be a registered trade union during continuance of the adjudication proceedings that would not affect the maintainability of the order of reference. But in the present case the order of reference was made at a time when the registration of the union stood cancelled. Therefore the union had no *locus standi* to raise a dispute and request the Government to refer the dispute to a Tribunal. The workers are not parties to the reference. No other union has taken up the cause of workers after the reference. Therefore this Court has no jurisdiction to adjudicate the dispute without anyone to represent the workmen.

6. Point No. (2) :

In the light of the above finding it follows that this Court has no jurisdiction to decide the dispute. However for the purpose of completeness and to avoid further delay and inconvenience to the workers I would discuss Point No. (2) also.

7. The workers numbered 33, whose list is annexed to the Claim Statement, are Sweeper-cum-Porters, Gangmen and Gatekeepers. They are provided with uniforms. Admittedly they are not given washing allowance. But certain other categories of Group 'D' employees of the Railway are given washing allowance. Exts. M2 to M5 are relevant provisions of Railway Establishment Code and amendments to the said Code. Ext. M2 is extract of Vol. II of Indian Railway Establishment Code, Para 1422. It reads :

"1422. Washing Allowance.—Group 'D' staff employed in the headquarters offices of a railway or in any other office where it is considered desirable by the Ministry of Railways from the Administrative point of view, that the Group 'D' staff should appear in neat and clean uniforms, may be granted by a special or general order, a washing allowance at such rate as the Ministry of Railways may prescribe from time to time."

Ext. 3 is extract of Vol. I of Railway Establishment Manual, Para 706. It reads :

"706. Washing Allowance.—Class IV staff Group 'D' employed in the headquarters of a railway or in any other office where it is considered desirable by the Ministry of Railways from the Administrative point of view, that the Class IV (Group D) staff should appear in neat and clean uniforms, may be granted by a special or general order, a washing allowance at such rate as the Ministry of Railways may prescribe from time to time. Uniforms supplied to Cooks, Asst. Cooks, Pantry men, Masalchis of Medical Department employed in railway hospital kitchens and other group D staff of hospitals and dispensaries such as Dressers, X-ray/Laboratory/Hospital Assistants, Hospital Peons, Ayahs, Sweepers, Stretcher bearers, may be washed departmentally.

Ext. M4 is Circular No. 11/2000 regarding amendment to Para 706 of Railway Establishment Manual referred above. The relevant portion reads :

“The following categories of Group D staff and the Staff Car Drivers (Group C) have been selected for the payment of washing allowance in terms of Rule 1422 RII (1990).

- (i) Such of the Class I Railway servants in schools as are provided with uniforms.
- (ii) Class IV Railway servants in hospitals and dispensaries, such as dressers, X-ray attendants, laboratory attendants, hospital peons, ayahs, Sweepers and Stretcher Bearers.
- (iii) Drivers of Staff Cars.
- (iv) Lift Attendants (Lift-men).
- (v) All non-gazetted staff of RPF/RPSF.
- (vi) Such of the Central Labour who are employed as peons and Motor Drivers only in Administrative Offices or persons attached to the Divisional Engineers in-charge of the Construction units/projects in the Construction Department of the Railway.
- (vii) Ambulance Car Drivers.
- (viii) Air-conditioned Coach Attendants.
- (ix) Waiting/Retiring Room Attendants/Ayahs.
- (x) Station Lift Attendants.
- (xi) First Class Coach Attendants.
- (xii) Group ‘D’ staff working in Catering Units either at Stations or in Running Trains.
- (xiii) Group ‘D’ staff working in Railway Stations engaged in sweeping/cleaning platforms/stations/buildings.

Ext. M5 is amended provision of Para 706 of Indian Railway Establishment Manual, Vol. 1. The provision is the same as in Ext. M4. The provisions in Ext. M2 & M3 show that the Railway did not intend to give washing allowance to all categories of Group ‘D’ employees, but only to certain selected categories who are working in offices and frequently appearing before the public and having contact with them.

8. The learned counsel for the union drew my attention to Ext. W1 to 4 to show that all those who are given uniforms are also entitled to washing allowance and this pattern has been followed in other Government establishment, like Posts & Telegraph, Telecommunications, Central Excise etc. Ext W1 is regarding revision of rate of washing allowance that is already granted to certain categories of Group ‘D’ staff. It does not show that all the

employees of Group ‘D’ are given washing allowance. Ext. W2 regarding grant of washing allowance to canteen employees of Railway. by Ext. W2 the Railway Board decided that instructions issued by the Department of Post & Telegraph regarding supply of uniform and livery items in the light of the order of CAT could be adopted by Railway. It was further decided by the Railway Board to give washing allowance to Bearers, Halwais, Assistant Halwais, Cooks and Tea/Coffee Makers, Dish Cleaners and Sweepers in canteens. It also does not show that all employees in group ‘D’ are entitled for washing allowance. Ext. W3 is the order of the Department of Revenue to give washing allowance to Sepoys of Customs, Central Excise & Narcotics Department who are given uniforms. Again this order will not show that the Railway employees are entitled to get washing allowance. Ext. W4 is with regard to washing allowance given to Postal employees who are supplied with uniforms. The order in Ext. W4 says that Postal employees who are getting uniforms are entitled to get washing allowance. This also does not show whether all the Postal employees are getting uniforms in order to say that all of them are given washing allowance. Assuming it is so, it is a different department and the same instructions need not be made applicable of Railway employees. It is for the Railways Board to decide to whom all uniforms and washing allowance should be given. The Railway feels that all categories of Group ‘D’ need not be given washing allowance, but only those who frequently appear before the public so that they will look neat and tidy. This decision may appear to be discriminatory because many categories of Group ‘D’ who are entitled to get uniforms are not given washing allowance. The Sweeper-cum-Porters, Gangmen and Gatekeepers are not given washing allowance. All of them belong to Group ‘D’. But Railway has taken a policy decision which cannot be questioned in a Court of Law. The union is bound to show that some rights of employees are infringed in order to claim the reliefs. According to the union article 14 of the Constitution is infringed and the classification of workers eligible to get washing allowance is arbitrary and discriminatory. Article 14 guarantees that wrongful and irrational discrimination cannot be practised either by law or by executive order to enforce fundamental rights and to question their violation, the aggrieved person has to approach High Court u/A-226 or Supreme Court u/A-32 of the Constitution. Labour Court or Industrial Tribunal is not the forum to decide that issue or grant any relief. Since the Railway has not intended to pay washing allowance to all workers in Group ‘D’. But only to certain categories as per Ext. 4 and M5 orders, the workmen in question are not entitled to get washing allowance. The learned counsel for the workmen has not been able to point out that other than alleged violation of A-14 of the Constitution, what other provisions of law or executive orders are violated by railway. In the absence of any such infringement of the rights of workmen they cannot succeed to get washing allowance.

9. In the result, an award is passed finding that the demand of the union for washing allowance to the employees working as Sweepers-cum-Porters, Gangmen and Gatekeepers, is not legal, proper and justifiable. The union is not entitled for any relief. The parties will suffer their respective costs. The award will take effect one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 11th day of May, 2007.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Workman/Union :

WW1-Smt. Narayani-17-4-2007

WW2-Shri A. H. Muhammed-24-4-2007

Witness for the Management:

Nil.

Exhibits for the Workman/Union:

W1 : Photostat copy of Order No. RBE 29/01 reg. revision of rate of washing allowance.

W2 : Photostat copy of order No RBE 158/02 regarding grant of washing allowance to canteen employees of railway.

W3 : Photostat copy of Order No. A-26011/12/98. Ad. II. A dated 16-6-1998 of Deptt. of Revenue.

W4 : Photostat copy of Order No. A-26/6/99. VPE dated 28-3-2001 of Deptt. of Post.

Exhibits for the Management :

W1 : Photostat copy of cancellation of certificate of registration issued by registrar of Trade Unions.

W2 : Photostat copy of Part 1422 of Vol. II of Indian Railway Establishment Code.

W3 : Photostat copy of Para 706 of Vol. I of Indian Railway Establishment Manual.

W4 : Photostat copy of Amendment to Para 70 of Vol. I of IREM.

W5 : Photostat copy of Amendment to Para 706 of Vol. I of Railway Establishment Manual.

नई दिल्ली, 28 मई, 2007

का. आ. 1777.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बिकानेर एंड जयपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, नई दिल्ली के पंचाट (संदर्भ संख्या 12/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-5-2007 को प्राप्त हुआ था।

[सं. एल- 12012/220/2004-आईआर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S.O. 1777.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/2005) of the Central Government Industrial Tribunal-cum-Labour Court-II, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of State Bank of Bikaner & Jaipur, and their workmen, received by the Central Government on 25-5-2007.

[No. L-12012/220/2004-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

I.D. No. 12/2005

Presiding Officer : R.N. Rai

Present : Sh. V.K. Aggarwal —1st Party
Sh. Rajat Arora —2nd Party

In The Matter of :—

Shri Ramesh Chand,
C/o The Vice President,
State Bank of Bikaner & Jaipur Karamchari Sangh,
898, Nai Sarak,
Delhi-110006

Versus

The Asstt. General Manager,
State Bank of Bikaner & Jaipur, Region-II,
Delhi Zonal Office, Ahinsa Bhawan,
Shankar Road, New Delhi.

AWARD

The Ministry of Labour by its letter No. L-12012/220/2004-IR(B-I) Central Government Dt.24-1-2005 has referred the following point for adjudication.

The point runs as hereunder :—

“Whether the action of the management of State Bank of Bikaner & Jaipur in regard to shifting the date of annual increment of Shri Ramesh Chand from 1st November to 1st April on Promotion to clerical cadre in the year 1985 is just, fair and legal? If not, what relief, Shri Ramesh Chand is entitled to and from which date.”

The claimant has filed statement of claim. In the statement of claim it has been stated that Shri Ramesh Chand is a workman joined the bank's service w.e.f. 26-8-1974 in subordinate cadre designated as Driver. He was drawing his annual increment on 1st November every year after getting benefit of temporary service period rendered prior to his permanent appointment.

That he was promoted to clerical cadre as cashier cum-godown keeper w.e.f. 1-5-1984. His basic pay was fixed at Rs. 545 as on 1-5-1984 and his date of annual increment was rescheduled as on 1st May every year (i.e. date of promotion) as per the then prevailing policy of the bank.

That subsequently the bank introduced a new fitment formula vide its circular No. PER/84/85/ dated 27-9-1985 which was applicable with effect from 1-9-1978. Apart from fitment formula it provides protection of date of annual increment of the promotee subject to para 2(d) of the circular. The important contents of this circular are as under :

2. At the recently held discussion with the representatives of the State Bank Employees' Association at Bangalore on 12th June, 1985, it was agreed to introduce a revised fitment formula.

Meanwhile on 17-9-1984 the Indian Bank's Association and Unions of workmen arrived at a new wage settlement known as 4th BPS, vide this settlement the scale wages for workmen staff were revised w.e.f. 1-7-1983.

That before his promotion, the workman as on 30-4-1984 was drawing Rs. 342 as Basic Pay and Rs. 104 as special allowance for driver on regular basis. According to 4th BPS these pay and allowance were revised to Rs. 600 and Rs. 173 respectively in subordinate cadre.

The basic pay of Shri Ramesh Chand as on 1-5-1984 i.e. date of his promotion was fixed at Rs. 545 on old scale of clerical cadre. The corresponding basic pay on new scale as per table given in the above cited circular arrived at 875 which clubbed with the employees of one lower stage in old scale i.e. Rs. 515. According to para 2 (d) of the Circular cited supra the date of annual increment of Shri Ramesh Chand should have been protected.

That the employee represented to the management time and again to get justice but to no effect. The union demanded vide their letter 22-10-2002 to restore the date of increment but no reply was given by the management.

The management/respondent has filed written statement. In the written statement it has been stated that the reference is bad in law as there was no evidence was produced on behalf of the workman to show any dispute on merit.

That the statement of claim is neither signed by the workman nor is there any authorisation letter by the workman. Thus, the claim is liable to be dismissed for want of authorization.

It is vehemently denied that the workman was drawing Rs. 600 as basic pay and Rs. 173 as special allowance. It is submitted that the basic pay was enhanced to Rs. 600 from Rs. 342 in terms of 4th BPS arrived at on 17-9-1984 and it cannot be that the workman was drawing the enhanced basic pay before enhancement. It is absolute misrepresentation of facts that adding enhanced basic pay

and special allowance the basic pay is arrived at Rs. 790 as at other stage is available between Rs. 773 (Rs. 600 + Rs. 173) and Rs. 790. It is respectfully submitted that the correct way of calculation is that if the sum of old basic pay and special allowance crossed Rs. 435 or more then he will be fitted on Rs. 875 in higher stage. Whereas in the present case the sum of basic pay and special allowance comes to Rs. 446 and thus he was fitted at Rs. 875 in lower stage. Accordingly in terms of clause 2 (d) his annual increment date shifted to the anniversary date of his promotion.

It may be submitted that the case of the claimant (600+173=773) falls between 760 and 790. In all those cases where basic plus special allowance falls from 761—789 the workman will get the fitment of above scale but at lower stage.

It is vehemently denied that the workman was entitled to protection in terms of Para 2 (d) of the circular. He was fitted at Rs. 875 in lower stage and thus, in terms of Clause 2 (d) of the circular his annual increment date shifted to the anniversary date of his promotion. The fitment of salary was fixed as per terms and the same was conveyed to the workman vide our letter No. P/41/PCR/2275 dated 9-5-1988. Thus the workman has no right to get arrears from any previous period.

It is vehemently denied that the employee represented to the management time and again or that any injustice has been caused to him. The letter of union was misconceived and it was issued after more than 18 years of the said fitment with ulterior motive to harass the management.

It is submitted that the union raised an industrial dispute just to harass the management. It is respectfully submitted that the reference to this Hon'ble Tribunal is bad in law as there was no dispute at all because the fitment has been done in terms of circular.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken. Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that he joined the bank's service w.e.f. 26-8-1975 in subordinate cadre designated as Driver. He was drawing his annual increment on 1st November every year after getting benefit of temporary service period rendered prior to his permanent appointment.

It was further submitted that he was promoted to clerical cadre as Cashier cum Godown Keeper w.e.f. 1-5-1984. His basic pay was fixed at Rs. 545 as on 1-5-1984 and his date of annual increment was rescheduled as on

1st May every year (i.e. date of promotion) as per the then prevailing policy of the bank.

It was further submitted that the bank introduced a new fitment formula vide its circular No. PER/84/85 dated 27-9-1985. Apart from fitment formula it provides protection of date of annual increment of the promotee subject to para 2 (d) of the circular.

It was submitted from the side of the management that the correct way of calculation is that if the sum of old basic pay and special allowance crossed Rs. 455 or more then he will be fitted on Rs. 875 in higher stage. Whereas in the present case the sum of basic pay and special allowance comes to Rs. 446/ and thus he was fitted at Rs. 875 in lower stage. Accordingly in terms of Clause 2 (d) his annual increment date shifted to the anniversary date of his promotion.

It was further submitted that the case of the claiming (600+173=773) falls between 760 and 790. In all those cases where basic plus special allowance falls from 761—789 the workman will get the fitment of above scale but at lower stage. It was submitted from the side of the management that there is no explanation of delay. Not to speak of plausible or satisfactory explanation. There is no explanation at all what prevented the workman to approach this forum after a long period of 20 years. It is settled law that stale claim made after an inordinate and unexplained period could not be entertained.

My attention was drawn to 2005 (5) SCC page 91 paras 12 and 13. The Hon'ble Apex Court has held that long delay impedes the maintenance of the records. Belated claim should not be considered.

It has been held in (2001) 6 SCC 222 as under :

"Law does not prescribe any time limit for the appropriate government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appear to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service."

In the instant case reference has been made after a delay of long 20 years. Limitation Act is not applicable in ID cases but stale cases should not be considered. Delay in the instant case is inordinate and relief can be rejected on the ground of delay alone.

The reference is for setting aside the order for shifting the date of annual increment of the workman from 1st November to 1st April on promotion to clerical cadre in the year 1985. The workman has demanded annual increment from 1st November whereas in the prayer clause he has requested for the benefits for the period from 01-07-1985 to

the date of payment together with interest. The prayer is for increment from 01-07-1985 to the date of payment together with interest. As such the claimant has not specifically stated the date of his annual increment. According to the reference it should be 1st November whereas according to the prayer clause it is 1st July, 1985, whereas the date of increment in clerical cadre is 1st May, 1984. The statement is confusing.

The annual increment relates to 1985. This reference has been received in 2005. It is settled law that stale claim should not be entertained and no premium should be paid for delay. There are catena of decisions on this point of the Hon'ble Apex Court. In view of the law cited above the claim of the workman does not deserve any consideration. The order of 1985 cannot be set aside on reference filed after 20 years. The workman is not entitled to get any relief as prayed for in view of inordinate delay.

The reference is replied thus—

The action of the management of State Bank of Bikaner & Jaipur in regard to shifting the date of annual increment of Shri Ramesh Chand from 1st November to 1st April on promotion to clerical cadre in the year 1985 is just, fair and legal. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date : 17-05-2007

R. N. RAI, Presiding Officer

नई दिल्ली, 28 मई, 2007

का.आ. 1778.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ़ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट (संदर्भ संख्या 23/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-5-2007 को प्राप्त हुआ था।

[सं. एल-12012/597/1998-आईआर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S. O. 1778.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 23/1999) of the Central Government Industrial Tribunal-cum-Labour Court Kanpur as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India and their workman, received by the Central Government on 25-5-2007.

[No. L-12012/597/1998-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI R.G. SHUKLA PRESIDING OFFICER:
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM LABOUR COURT KANPUR.

I.D. No. 23/1999

In the matter of dispute between :

State Bank of India Employees Association

The Assisant Regional Secretary

24, Lakshmi Market Regional Office

Agra-282001 U.P.

And

The Deputy General Manager

State Bank of India

Zonal Office Sanjay Place, Agra U.P.

AWARD

1. Central Government, Ministry of Labour, vide notification No. L-12012/597/98-IR (B-I) dated 22-4-99 has referred the following dispute for adjudication to this tribunal :

"Whether the action of the management of State Bank of India Agra in stoppage of two increments in respect of Sri S. K. Bajaj vide their order dated 17-9-96 is legal and justified? If not, what relief the workman is entitled to?"

2. Briefly stated fact as set up by the Union raising the dispute on behalf of the workman in the statement of claim is that the workman was served with a charge sheet dated 23-12-1994 on unfounded and false grounds by the opposite party which was effectively replied by the workman vide letter dated 24-1-1995. It has further been pleaded that service carrier of the workman ever remained plotless and neither he was ever chargesheeted nor any punishment was imposed upon him. It is also pleaded that the workman is an active trade union worker and on account of this he has been chargesheeted deliberately by the opposite party on trumped up grounds as well as on false grounds. It is further pleaded by the union that the entire domestic inquiry against the workman has been conducted violating rules of natural justice and disciplinary rules as well. No documents were supplied to the workman despite raising demand and even the defence representative of the workman vide letter dated 4-1-1996 lodged a protest before the Enquiry Officer still Enquiry Officer continued to conclude the inquiry. No opportunity of defence was granted by the Inquiry Officer.

3. It has also been pleaded that the workman was never granted any opportunity by the inquiry officer to cross examine the witnesses examined by the opposite party before the inquiry officer and after concluding the evidence of management inquiry officer straight way directed to file

written arguments. In this way the workman was deprived of an opportunity of his defence, therefore, the entire disciplinary action against the workman is not in consonance with the rules of disciplinary inquiry and principles of natural justice have been breached badly by the management of opposite party. Inquiry officer ignoring the facts of the case has prepared the inquiry report on arbitrary grounds which is nothing but an *ex parte* inquiry report and on the basis of *ex parte* inquiry report management preferred to impose upon the punishment as mentioned in the schedule of reference order. It has also been pleaded that the final punishment awarded to the workman is absolutely on unfounded grounds and is liable to be set aside. On the basis of above pleadings it has been prayed by the union that final order dated 17-9-1996 be set aside and the workman be held entitled for consequential benefits.

4. Opposite party has contested the claim of the workman on variety of grounds *inter alia* alleging that the workman was not charge sheeted on account of his trade union activities rather he was chargesheeted on account of misconduct committed by him. The domestic inquiry was properly conducted and the workman was given opportunity to defend the case at every step by allowing him to appoint defence representative of his choice; copy of documents filed by the management were supplied to the workman; defence representative admitted the documents and desired time to go through those documents which was allowed to him; after examining the management witness, Inquiry Officer offered opportunity to the defence representative of the workman to cross-examine the management witness which was refused by him on one ground or the other; defence representative was given opportunity to file list of witnesses in defence still the defence representative did not comply with the direction of the inquiry officer, therefore the inquiry officer concluded the inquiry. It has been pleaded by the opposite party that on the face of record it is quite obvious that the defence representative of the workman himself did not avail the opportunity of defence therefore, the allegations of violation of principles of natural justice is absolutely devoid of merit and unfounded. The workman has filed reply dated 20-8-1996 against the order of tentative punishment and considering the same the disciplinary authority vide order dated 17-9-1996 passed the punishment order. Lastly it has been pleaded that the workman is not entitled for the relief as claimed by the union on his behalf in the present claim, which may be rejected by this Tribunal.

5. After exchange of pleadings between the parties both contesting parties were given opportunity to adduce oral as well as documentary evidence in support of their respective claim and counter claim, but when the union failed to avail the opportunity granted by the tribunal, workman was debared from this evidence vide order dated

11-11-2003. On the contrary management adduced documentary as well as oral evidence and examined its witness Sri D. D. Ratra its officer as M.W.1.

6. From the above fact it appears that there is no evidence worth the name on behalf of the workman in support of his claim, therefore, the tribunal is not inclined to believe the case of the workman. Whereas management have substantiated its claim by documentary as well as oral evidence. Even none was present or appeared on behalf of the workman to cross-examine the witness of the management, thus the evidence of management goes uncontested. Under these circumstances tribunal has no hesitation in believing the case of the opposite party.

7. In view of above discussions, it is held that the action of the management of State Bank of India, Agra, in stoppage of two increments in respect of Sri S. K. Bajaj vide order dated 17-9-1996 is legal and justified. It is further held that the workman will not be granted any relief as claimed by the union of which he is a member.

8. Reference is therefore awarded in favour of the management and against the workman.

R. G. SHUKLA, Presiding Officer

नई दिल्ली, 28 मई, 2007

का. प्र. 1779.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसारण में, केन्द्रीय सरकार क्षेत्रीय किसान प्राथमिक बैंक के प्रबंधन के संबंध में निदेशों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथवा मध्यस्थता कानपुर के पंचाट (संदर्भ संख्या 281/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-5-2007 को प्राप्त हुआ था।

[सं. एल-12012/241/99-आईआर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S. O. 1779.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 281/99) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial dispute between the management of Kshetriya Kisan Gramin Bank and their workmen, which was received by the Central Government on 25-5-2007.

[No. L-12012/241/99-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI R. G. SHUKLA PRESIDING
OFFICER : CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
KANPUR

I.D. No. 281 of 1999

In the matter of dispute between :

Shyam Kumar Verma

C/o B. P. Saxena

426 W-II, Vasant Vihar

Kanpur

And

The Chairman

Kshetriya Kisan Gramin Bank

Mainpuri

AWARD

1. Central Government, Ministry of Labour, vide notification No. L-12012/241/99-IR (B-1) dated 21/22-10-99 has referred the following dispute for adjudication to this tribunal :

"Whether the action of the management of Kshetriya Kisan Gramin Bank, Mainpuri, in terminating the services of Sri Shyam Kumar Verma and not reinstate him under the provisions of Sec. 25H is legal and justified? If not to what relief the workman is entitled?"

2. It is unnecessary to give full facts of the case as set up by the contesting parties mainly for the reasons that from a bare perusal of the schedule of reference order it is quite clear that the date of termination of the services of the workman is not found mentioned in it. It may also be pointed out that it is held by the tribunal that the action of the management is neither legal nor just then a normal question which arises for consideration before the tribunal as to from what date workman be held entitled to be reinstated in the service. From this point of view the schedule of reference order *prima facie* appears to be vague and the same is not liable to be answered by the tribunal granting workman relief as claimed by him. Even otherwise on merit of the case it is not disputed either by the workman or by the management that the workman was a daily rated employee. A daily rated employee has no right to claim reinstatement in the service of any department unless it is proved that he was ever appointed by order in writing at any point of time. This preposition of law has repeatedly been pointed out by the Hon'ble Supreme Court of India. In a leading case of Smt. Uma Devi versus Union of India the Hon'ble Supreme Court has held that daily rated employee has neither any status nor he can claim for his reinstatement in the service of the management. From entire perusal of the record, tribunal is of the firm opinion, that no case is made out in favour of the workman, therefore, the

workman cannot be held to be entitled for the relief as claimed by him.

3. In view of above position and discussions of facts it is held that the action of the management of Kshetriya Kisan Gramin Bank in terminating the services of Sri Shyam Kumar Verma cannot be held to be illegal and unjustified. It is also held that the provisions of Sec. 25-H of the I.D. Act, 1947, can also not be made applicable in the case of the workman. Accordingly reference is answered against the workman holding that he is not entitled for any relief of any nature whatsoever what to say his reinstatement in the services of the opposite party bank.

R. G. SHUKLA, Presiding Officer

नई दिल्ली, 28 मई, 2007

का. अ. 1780.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दक्षिण रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, एर्नाकुलम के पंचाट (संदर्भ संख्या 291; 293; 298; 301/06) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-5-07 को प्राप्त हुआ था।

[सं. एल-41012/50/99-आई आर (बी-1)]

[सं. एल-41012/65/99-आई आर (बी-1)]

[सं. एल-41012/63/99-आई आर (बी-1)]

[सं. एल-41012/52/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th May, 2007

S. O. 1780.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 291; 293; 298; 301/06) of the Central Government Industrial Tribunal cum Labour Court Ernakulam as shown in the Annexure, in the Industrial Dispute between the management of Southern Railway and their workmen, which was received by the Central Government on 25-5-07.

[No. L-41012/50/99-IR(B-I)]

[No. L-41012/65/99-IR(B-I)]

[No. L-41012/63/99-IR(B-I)]

[No. L-41012/52/99-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT ERNAKULAM

PRESENT: Shri P. L. Narayan, B.A., LL.B.,

Presiding Officer

I.D. Nos. 291/2006, 293/2006, 298/2006 & 301/2006

ID. 291/2006

(I. D. 47/99 of Labour Court, Ernakulam)

Workman : C. Chandran
C/o General Secretary
Dakshin Railway Casual Labour Union
Edappally North—
Kochi-26.

Adv. Shri C. Anil Kumar

Management : The Divisional Personnel Officer
Southern Railway
Palakkad-678001.

Adv. Shri M.C. Cherian

ID. 293/2006

(I. D. 49/99 of Labour Court, Ernakulam)

Workman : K. Palani
C/o General Secretary
Dakshin Railway Casual Labour Union
Edappally North,
Kochi-26.

Adv. Shri C. Anil Kumar

Management : The Divisional Personnel Officer
Southern Railway,
Palakkad-678001.

Adv. Shri M.C. Cherian

ID. 298/2006

(I. D. 55/99 of Labour Court, Ernakulam)

Workman : K. Sandhan
C/o General Secretary
Dakshin Railway Casual Labour Union
Edappally North,
Kochi-26.

Adv. Shri C. Anil Kumar

Management : The Divisional Personnel Officer
Southern Railway
Palakkad-678001.

Adv. Shri M.C. Cherian

ID. 301/2006

(I. D. 59/99 of Labour Court, Ernakulam)

Workman : Arumughan
C/o General Secretary
Dakshin Railway Casual Labour Union
Edappally North
Kochi-26.

Adv. Shri C. Anil Kumar

Management

The Divisional Personnel Officer
Southern Railway,
Palakkad-678001.

Adv. Shri M.C. Cherian.

AWARD

These are references made by Central Government under Section 10 (1) (d) of Industrial Disputes Act, 1947 for adjudication. Since these references are common except the names of workmen, only one of the schedules of references is quoted. The reference is :

"Whether the action of the management of Southern Railway, Palghat in terminating the service of Shri K. Palani, Transship Porter with effect from 28-2-81 is justified? If not, what relief the workman is entitled to?"

2. Since the facts, evidence and law are common. These references are disposed off by a common Award. The evidence is adduced in I.D. 293/2006 and it is treated as the leading case.

3. The facts of the case in brief are as follows :—

The workmen, 4 in number, were engaged by the Railway as transshipment casual labourers on piece-rate basis from 1-1-1973 to 28-2-1981. The engagement was continuous and uninterrupted. The nature of work was that the workmen had to load and unload goods from wagons of meter gauge trains to broad gauge trains and vice-versa. The workmen contend that they were under the control and supervision of the chief goods clerk of the Palakkad Town Railway Station. They were working from 7 a.m. to 5 p.m. The workmen were in service continuously until 28-2-1981 when their services were terminated abruptly without notice or retrenchment compensation. The claimants are workmen coming within the definition of S-2(s) of Industrial Disputes Act. The work done by the claimants were continued by others who were juniors to the claimants. The claimants had discharged their duties to the entire satisfaction of the management and there were no disciplinary proceedings against them. The termination is illegal and against the provisions of S-25F and 25G of I.D. Act. The workmen are entitled for reinstatement and back wages.

4. The Railway filed written statement contending that the claim is stale. The dispute was raised 18 years after the action of the management. No records are available with the Railway to know the real facts regarding the service of the workers. The workmen had challenged the action of the management before the High Court of Kerala in 1981 itself by filing O.Ps. 2947/81 and 4200/81. Subsequently they were transferred to Central Administrative Tribunal, Madras. By a common order claim of workers were dismissed on 29-7-1987. Hence the present reference is barred by principles of *res judicata* and *estoppel*. The workers had filed application before Assistant Labour Commissioner

(Central) for gratuity and an amount of Rs. 1385 each was allowed. Though the management had objected to the payment of gratuity and was aggrieved by the order of ALC, since the amount was meager the management did not challenge the order of the controlling authority under Payment of Gratuity Act. The identity of claimants is doubted. In the beginning transshipment of goods was being carried out by independent contractors. However, subsequently the employees formed a union and took up the work on contract basis. The union was deputing their members for work. The work was not of regular nature. It was being done at the direction of the union. The transshipment was only up to 7-2-1981. It is denied that the workers were working continuously for 240 days in any year. The workmen raised dispute and got a reference to the Court by suppressing actual facts and misleading the authorities concerned. The order for payment of gratuity prompted the workmen to raise the dispute again which was already considered and determined by CAT. Another claim for gratuity of one of the workmen was dismissed by the Appellate Authority. Initially the Government had refused to refer the dispute for adjudication. The reference is not sustainable as it was obtained suppressing the facts and misleading the authorities.

5. In the light of the above contentions the following points arise for consideration :

(1) Is the claim stale?

(2) Is the termination illegal?

The evidence consists of the oral testimony of WW1 and documentary evidence of Exts. W1 to W5 on the side of workmen and Exts. M1 to M3 on the side of management.

6. Point No. (1) :

The workers in this case (numbering 4) and 27 others were engaged for transshipment work at Palakkad Town Railway Station on 1-1-1973. They worked up to 29-2-1981 when their services were terminated. The dispute was raised in 1999 references were made on 17-6-1999 and 15-7-1999 after a period of 18 years. Hence the Railway contends that the claim is stale and they are put to difficulty in tracing out records relating to the dispute. The judicial pronouncement is to the effect that though Limitation Act is not applicable to proceedings under I.D. Act. If there is inordinate delay in raising the dispute, thereby causing prejudice to the management in tracing out documents relating to the dispute and meeting the claims, then the aspect of delay has to be considered by Courts, the decisions are :

Ajaib Singh v. Sirhind Co-op. M.P.S.S. Ltd. (1999) 6 SCC 82.

Nedungadi Bk Ltd. v. K. P. Madhavankutty & Ors. 2000-1 L.L.J. 561 Asstt. Ex. Engr. v. Sivlinga 2002-ILLJ.457.

Haryana State Coop. Land Dev. Bank v. Neelam 2005 I-L.L.J. 1153.

Mahabir v. State of Haryana 2005-II-L. L.J. 391

The workers are claiming reinstatement with back wages and continuity of service. They contend that they were casual labourers who had put in 8 years of continuous service. They have attained temporary status as per the provisions of Indian railway Establishment Manual and are 'workmen' within the definition of S-2(s) of Industrial Disputes Act. To know the service status of these workers the management has to trace out the records of 1981 and prior to that. Unless a dispute is alive many records are likely to be destroyed according to rules for destruction of records. Besides, service records become voluminous over a period of several years and it is not easy to trace out relevant records. The long delay thus disables the railway to meet the claim. The delay has caused prejudice to the management. The claim is therefore stale.

7. Point No. (2):

The workers in these cases were engaged in the work of transshipment of goods from the wagons of meter gauge trains to broad gauge trains and *vice versa* from 1973. According to the workers they were employed directly by the railway in Palakkad Town Railway Station in 1973. They were supervised and controlled by the chief goods clerk of that station. WW1, one of the workmen was examined on behalf of workers. According to him the workers have to sign the muster roll in the morning and sign vouchers in the evening to get their wages. The payment was made on piece-rate basis depending upon the quantum of work. But according to the management initially the transshipment work was entrusted to a contractor who had submitted the lowest quotation. Later the workers themselves formed a union and the work was taken up by the union. The workers were deputed by the union, they were controlled and supervised by the union and not by Railway. Payment was made to union on piece-rate basis. The Railway had to disciplinary power over the workers. Hence they deny that the workers were casual labours of the railway. They also deny that these workers had worked continuously for a period of 240 days or more during any year.

8. No documents are produced by the workers or summoned from the management to show that there was a muster roll for these workers, vouchers were signed by the workers or Acquittance Roll was signed by them to get their wages. Admittedly there is not appointment order or relieving order. The railway usually issues casual labour service cards to casual labours. That is also not produced by the workers. Other than the testimony of WW1 that they were supervised and controlled by the chief goods clerk of the station and payments were made every evening on piece-rate basis by the Palakkad Town Station Master, there is no documentary evidence to substantiate the claim. No relevant documents to prove their claim are produced or summoned from the management. At the same time WW1 admits that the payment was made for the days work as a

lump sum amount and it was distributed among the workers by themselves. But the absentees were not given wages on the days they were absent. The only documents produced by the workers are order of Assistant Labour Commissioner allowing gratuity and the orders of Regional Labour Commissioner as Appellate Authority confirming the order of ALC for payment of gratuity. But later by Ext. M2 order dated 29-1-2001 the decision of the controlling authority (ALC) for the payment of gratuity to one of the workers was reversed finding that there is no employer-employee relationship between the worker and the Railway. It appears that when Ext. M2 decision was taken by RLC it was brought to the notice of RLC that there was an order from Central Administrative Tribunal regarding the issue of employment of these workers in the Railway and that once the Government had refused to refer the dispute to Industrial Tribunal by Ext. M3 order dated 24-3-2000. The present reference was made in 1999, prior to Ext. M3 order. When the present reference was made it appears that the order of CAT was not brought to the notice of the Government. Ext. M1 is the order of CAT. The same issue regarding termination of service of workers and their reinstatement was considered by CAT, Madras bench. This case was originally filed before Hon'ble High Court of Kerala which was transferred to CAT. The CAT found that there is no master and servant relationship between the workers 16 in number and the Railway. The work was done through union which had deputed workers for the transshipment work. The Railway Administration had no control over the workers. The union used to supply labour and supervise them. The Railway had no disciplinary power also. Therefore it was found that they were not the workmen of the Railway and they were not entitled for any relief. In view of this decision of CAT it is submitted by the learned counsel for the management that the present claim is barred by principles of *res judicata*. The termination and its legality were challenged before CAT and the same issue is raised in the present references as well. The forum that decided the former issue is competent to decide the present issue. Thus S-11 of Civil Procedure Code applies and the claim is barred by principles of *res judicata*. It is held in Ex. Engr. ZB Egg. Divn v. Digembara Rao (2004) 8 SCC 262 that the principles of *res judicata* is applicable to proceedings under I. D. Act. That apart, as already found, there is absolutely no evidence to show that the workers were employed by the Railway. Therefore the question of non-engagement or termination of the service of workers by Railway does not arise at all. Moreover it is admitted by WW1 that since February, 1981 the meter gauge trains stopped arriving at Palakkad Railway Station and hence there was no transshipment work. Since the workmen were contract labour and not the employees of the Railway, the latter was not bound to deploy them in any other unit of the Railway. The disengagement or termination, by whatever term it is called, is not illegal and the workers are not entitled to any relief.

9. In the result, an award is passed finding that the action of the management of Southern Railway, Palakkad in terminating the services of S/Shri C. Chandran, K. Palani, K. Sankaran and Armughan is legal and justified and the workers are not entitled for any relief. No cost. The award will take effect one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 16th day of May, 2007.

P.L. NORBERT, Presiding Officer

APPENDIX

Witness for the Workman/Union :

WW1-Shri K. Sankaran-9-5-2007.

Witness for the Management:

Nil.

Exhibits for the Workman/Union :

W1 : Photostat copy of decision in GA.27/96 dated 26-4-1996 by ALC, the controlling authority under the Payment of Gratuity Act.

W2 : Photostat copy of decision in GA.25/96 dated 24-2-1998 by RLC, the Appellate Authority under the Payment of Gratuity Act.

W3 : Photostat copy of decision in GA.30/96 RLC, Appellate Authority under the Payment of Gratuity Act.

W4 : Photostat copy of decision in GA.27/96 24-2-1998 by RLC, Appellate Authority under the Payment of Gratuity Act.

W5 : Photostat copy of decision in GA.29/96 2-5-1996 by ALC, the controlling authority under the Payment of Gratuity Act.

Exhibits for the Management :

M1 : Photostat copy of Order dated 29-7-1987 of CAT, Madras Bench.

M2 : Photostat copy of decision GA. 1/98 dated 29-1-2001 by RLC under the Payment of Gratuity Act.

M3 : Photostat copy of Order No. 4-41012/22/00-IR(B1) dated 24-3-2000 by M/o Labour, Govt. of India.